SENATE—*Friday, October 13, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER:

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

*Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass, or a tinkling cymbal. And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not love, I am nothing. And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not love, it profiteth me nothing. Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up, Doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil; Rejoiceth not in iniquity, but rejoiceth in the truth; Beareth all things, believeth all things, hopeth all things, endureth all things. Love never fails * * *.*—I Corinthians 13:1-8.

Eternal God who art love, in the context of so-called hard-ball politics, the word "love" sounds out of place; but help us to understand its power to forgive, to heal, to reconcile, to unite. Impress upon us the reality that love transcends controversy by infinity. And, let the love of God prevail in this place.

In the name of Him who is incarnate love. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT

Mr. MITCHELL. Mr. President, I understand that under the previous order, the Senate will now immediately resume consideration of the reconciliation bill, and I inquire and ask you whether or not that is correct.

The PRESIDENT pro tempore. The majority leader is correct. The clerk will state the title of the bill.

The assistant legislative clerk read as follows:

A bill (S. 1750) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for fiscal year 1990.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of no quorum has been raised. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I will again suggest the absence of a quorum, but I request that the time be charged equally to both sides.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, what is the pending business?

The PRESIDENT pro tempore. The pending business is the reconciliation bill.

Mr. HEINZ. Mr. President, I ask unanimous consent to speak out of order, as in morning business.

The PRESIDENT pro tempore. How much time will the Senator wish to speak?

Mr. HEINZ. The Senator from Pennsylvania [Mr. SPECTER] and myself, for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 1754 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEINZ. Mr. President, I thank the Chair.

I certainly urge our colleagues to join in cosponsoring this legislation.

I am pleased to yield the remainder of my time to my colleague from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, I thank the Chair. I thank my distinguished colleague.

Mr. President, I have been asked to request unanimous consent that all time consumed by Senator HEINZ and myself on this legislation be counted against the reconciliation bill because it is the intent of the leadership to keep the clock running for the allotted time. I so ask unanimous consent.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1754 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 10 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 10 a.m. and that the time between now and then be charged against the bill equally against both sides.

There being no objection, the Senate, at 9:19 a.m., recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

RECESS UNTIL 11 A.M.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 a.m. this morning, and that the time be charged against the bill equally divided.

The PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the Senate, at 10 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

The PRESIDENT pro tempore. The senior Senator from Alabama [Mr. HEFLIN], is recognized.

Mr. HEFLIN. Mr. President, I ask unanimous consent that I be allowed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

to speak in morning business and that the time be charged equally each side relative to the reconciliation bill.

The PRESIDENT pro tempore. Without objection, the Senator will be permitted to speak out of order with the time running equally against both sides.

DR. A.G. GASTON HONORED BY NATIONAL BUSINESS LEAGUE

Mr. HEFLIN. Mr. President, the National Business League will hold its 89th annual convention in Birmingham, AL, October 17-20, 1989. The league was founded by the late Dr. Booker T. Washington, who also founded what is now called Tuskegee University, in Tuskegee, AL.

On Friday night, October 20, 1989, the National Business League will bestow its highest award on Dr. A.G. Gaston, an Alabama entrepreneurial pioneer, for his 66 years of success in business.

Dr. Gaston's successful business life unfolds in story-book form. He says that every business that he has ever started was based on a real need in the community. He filled each need as he recognized it.

In 1923, Dr. Gaston started an insurance company in Birmingham, AL, with less than $500. It was an offshoot of the Booker T. Washington burial society. It became the nucleus of a network of corporations which he now owns or controls with combined assets in excess of $95,000,000.

In 1939, he and his wife, Minnie, founded the Booker T. Washington Business College in Birmingham, AL, because they could not find enough qualified clerks and typists to service their businesses. Although Dr. Gaston says that they never intended to make any money out of it, it proved to be a very lucrative investment during the war. Today, the business college is owned and operated by Mrs. Gaston. She boasts of having graduates in well-placed government positions throughout the country.

In 1954, Dr. Gaston opened the only first-class motel and restaurant in Birmingham that would accommodate black travelers. It was the only public facility available to the late Dr. Martin Luther King, Jr., and his associates during the demonstrations there.

In 1957, Dr. Gaston founded the Citizens Federal Savings & Loan Association to provide home mortgage money for blacks who could not borrow it from other financial institutions in significant amounts. It's now Citizens Federal Savings Bank. Capital was over 60 million dollars as of September 30, 1986. In May of this year, the bank was rated the safest savings and loan in Birmingham by Bauer Communications Inc, of Miami.

In 1962, the mayor of Demopolis, AL, presented to Dr. Gaston the city's native son award. Since that time, the mayor has declared August 31 of each year as "Dr. A.G. Gaston Day" in the city of Demopolis, AL, for all times.

Not only is this 97-year-old stalwart a leader in the business community, but also in community relations. He firmly believes that money is no good unless it contributes something to the community.

Thus, in 1963, he founded Gaston Home for Senior Citizens because, at the time, there were no first-class nursing homes for blacks in the State of Alabama.

In 1966, he contributed $50,000 to a fundraising drive to start an affiliate to the Boys' Clubs of America to meet the recreational needs of over 2,000 boys in a high-crime neighborhood of the city of Birmingham. Police records show a 50-percent drop in juvenile crime after the A.G. Gaston Boys' Club was established.

Dr. Gaston's business, education and civic awards, honors and achievements are such that they could fill a book. However, I would like to list his educational background and the various corporations for which he serves as board chairman and chief executive officer. Dr. Gaston is a graduate of Tuggle Institute, Birmingham, AL. He holds honorary doctorates from the following institutions of high education: Tuskegee University, Daniel Payne College, Birmingham, AL; Paul Quinn College, Waco, TX; Allen University, Columbia, SC; Monrovia College and Industrial Institute, Monrovia, Liberia, West Africa; Edward Waters College, Jacksonville, FL; Alabama A&M University, Normal, AL; doctor of laws: Pepperdine University, Los Angeles, CA; University of Alabama; Troy State University, AL; and the University of Montevallo, AL.

He serves as board chairman and chief executive officer of the following Alabama corporations:

Booker T. Washington Insurance Co.;

A.G. Gaston Home for Senior Citizens;

New Grace Hill Cemetaries, Inc.;

Zion Memorial Gardens;

Vulcan Realty and Investments Corp.;

Gaston Gardens I and II;

Smith & Gaston Funeral Directors, Inc.;

Citizens Federal Savings Bank;

Booker T. Washington Broadcasting Co. (WENN Radio FM and WAGG AM); and

A.G. Gaston Construction Co.

Mr. President, I have known Dr. Gaston personally for the last 40 years or so. He is truly a financial wizard extraordinaire. He says that he never set out to become rich—only to fill needs. He is considered today Birmingham's most successful businessman—color notwithstanding. I can think of no one more deserving of the highest and best award of the National Business League than Dr. A.G. Gaston.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of having no quorum having been raised, the clerk will call the roll.

The legislative clerk proceeded to call at roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum but I ask unanimous consent that the time for the quorum call be charged equally against both sides relative to the tolling of the time on the Budget Reconciliation Act.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding the time of the quorum call would not be charged against either side under the Budget Act; is that true?

The PRESIDENT pro tempore. What is the Senator's question?

Mr. STEVENS. Mr. President, I might state that my objective is to stop further time from running on the Budget Act until we get back to consideration of the reconciliation bill that is before us. My inquiry is whether, if I object, the time would be charged to either side under the Senator's request.

The PRESIDENT pro tempore. A quorum call, if made immediately preceding a vote, is not charged; otherwise, a quorum call is charged against the time.

Mr. STEVENS. Mr. President, the effect of the Senator's request is that the time now is equally divided rather than the person asking for the call.

The PRESIDENT pro tempore. That is correct.

Mr. STEVENS. I will not object. Parliamentary inquiry. How much time is left to each side, Mr. President?

The PRESIDENT pro tempore. The majority has 4 hours and 6 minutes; the minority has 4 hours 42 minutes.

Mr. STEVENS. I thank the Chair. I might state to the Chair and to the Senate I intend to object to any further charging of time against this bill until we are back on the bill, if it is possible to do that. I thank the Chair.

The PRESIDENT pro tempore. Will the Senator repeat his request.

Mr. HEFLIN. I ask unanimous consent that there be a quorum call and that the time be equally charged against both sides during the period that the quorum call exists and that the time tolled be subtracted from the remaining time of the Budget Reconciliation Act.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I be permitted to speak out of order until 12 o'clock noon, and that my statement in its entirety together with footnotes appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, parliamentary inquiry: will this time be charged against the time on the reconciliation bill?

Mr. BYRD. Yes. I ask unanimous consent that the time be equally charged on the reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I have great love and affection for my friend from West Virginia but some of us have amendments to this bill and will be foreclosed if the time keeps running against the reconciliation bill.

Mr. President, if the order has already been entered, I will not ask that it be rescinded but I want to state from my point of view that many of us have amendments to this bill. Unless we can start the clock running on the bill, we cannot offer our amendments.

I have great respect and affection for my friend and the Chair has already ruled on his request. So I will not ask that it be reversed now.

Thank you.

Mr. BYRD. Mr. President, I fully understand the problem which the distinguished Senator from Alaska is addressing, and as I have indicated to him I will be perfectly willing to withhold my remarks until some future time. My remarks have to do with the history of the Senate, and always throughout this series of remarks I have only done them with the understanding that there is no other business to be transacted at that point.

So I would have no feeling at all toward the Senator. I would be happy to yield the floor and let Senators offer amendments if they wish.

Mr. STEVENS. Mr. President, I appreciate the generosity of the distinguished President pro tempore. But it would do me no good to attempt to offer amendments when the managers of the bill are in conference. I am trying to get them to come back here, and conduct the floor as managers of the bill and let us offer amendments.

So with due respect and gratitude I do not think even my friend's generosity would bring them back right now. We have to find some way to get them back.

I thank my friend.

Mr. BYRD. I thank my friend.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE UNITED STATES SENATE

THE SENATE FILIBUSTER—1789-1917

Mr. BYRD. Mr. President, Filibuster!—bane of Senate majority leaders, redoubtable weapon of legislative minorities, target of editors and cartoonists' harpoons, the object of obloquy and scorn. The word is said to have come from the Dutch word *vrijbuiter,* or "freebooter," and passed into the Spanish as *filibusteros,* "who were West Indian pirates, using a small swift vessel called a *filibote.*" [1] To the average American, it means obstructive tactics in a legislative body and is quickly associated with the United States Senate, and it is not unfamiliar to state legislatures around the country.

Obstructive tactics in a legislative forum, although not always known as filibusters, are of ancient origin. Plutarch tells us that when Caesar returned to Rome after a sojourn in Spain, his arrival happened at the time of the election of consuls. "He applied to the Senate for permission to stand candidate," and Cato strongly opposed his request and "attempted to prevent his success by gaining time; with which view he spun out the debate till it was too late to conclude upon any thing that day." [2]

Filibusters were also a problem in the British Parliament.

In nineteenth-century England, even the members of the cabinet accepted the tactics of obstruction as an appropriate weapon to defeat House initiatives that were not acceptable to the government. Opposition leaders had no qualms about the employment of wordy speeches to delay and hinder the majority. "It is told of no less a personage than Sir Robert Peel that, in 1831, he made no fewer than forty-eight speeches in fourteen days." [3] In 1881, the House of Commons sat for 154 days and 1,400 hours, 240 of which were after midnight. Debates on the Land Bill "took up 58 sittings," and on the Coercion Bill, twenty-two sittings, with 14,836 speeches delivered, 6,315 of them by Irish members. Nearly 2,000 points of order were raised during the session. Speaker Brand, on January 31, after a sitting of forty-one hours, declared, "Mr. Parnell [the Irish Leader], with his minority of 24, dominates the House. When will the House take courage and reform its procedure?" Speaker Brand then "simply put the question." [4]

That the members of the British Parliament were not alone in the use of lengthy speeches as a means of obstruction is clear from the "wonderful examples on record":

> How modest seems the seven-hour obstruction speech of the Social Democrat, Antrick, in the German Reichstag, and even the twelve-hour oratorical effort of Dr. Lecher in the Austrian House of Deputies, compared with a twenty-six-hour speech which was delivered in 1893 in the parliament of British Columbia, or with the thirty-seven-hour address in which a delegate in the Roumanian Chamber of Deputies, in 1897, demanded the indictment of Joan Bratiano! . . . In April, 1896, a sitting of the Canadian House of Commons devoted to a bill dealing with the schools in Manitoba lasted a hundred and eighty hours, and in Chile a single speech is reported to have extended through ten days of a session." [5]

France, too, had her troubles, undoubtedly, the word *cloture* coming from the French.

There was protracted debate in the first session of the First Congress regarding the permanent site for the location of the Capital. Fisher Ames, a member of the House from Massachusetts, complained that "the minority . . . make every exertion to . . . delay the business." [6] Senator William Maclay of Pennslyvania complained that "every endeavour was used to waste time," that Senators Lee, Butler, and Grayson "refused to go on the Business as Gunn was absent," and that, when Senator Gunn finally arrived, "then they wanted to go and see the Ballon let off," the reference being to a hot-air balloon that was one hundred feet in circumference, the ascension of which had been much advertised. (Incidentally, the balloon caught fire, and "the experiment ended in failure.") [7] Maclay observed that "there is really such a thing as Worrying weak or indifferent Men into a Vote," and that "no business ever could have a decision, if Minority Members, were permitted to move reconsiderations, Under every pretense of new Argument." [8]

Long speeches and other obstructionist tactics were more characteristic of the House than of the Senate in the early years. But the House, on February 27, 1811, "decided . . . that after the previous question was decided in the affirmative, the main question should not be debated." [9]

The Senate was a much smaller body and the members were more staid and polite and dignified than were the members of the House, where most of the action occurred and most of the spectacular battles were fought prior to the Jacksonian era. However, with the election of John Randolph of Virginia to the Senate in 1825, the speech-making landscape began to change. Randolph had served previously in the House where he had been notorious for his extreme eccentricity and long-winded, vitriolic diatribes. Pity the person inside or outside the Chamber who came under the

lash of his biting sarcasm and merciless invective. Randolph had fought several duels and was a man of ungovernable temper, as well as great ability, who engaged in "long and rambling discourses," whose friends "pardoned him as one half insane," and whose enemies "ascribed his irrationality to drink." [10] One may marvel at the incongruity of his sentences, the perverted logic, the roving discourse, the deluge of words that flowed with ease from the caustic tongue of Randolph. His speeches brimmed with irrelevancies; yet, there were often flashes of brilliancy in his long and desultory harangues.

Fragments from Niles' Register of August 26, 1826, will amply demonstrate his elocutionary dexterity during debate on a bill adding to the number of circuit judges, with not one word by Randolph concerning the subject matter of the debate.

Randolph made a passing reference to difficulties "where the legislature or the judicature is separated by any long interval of space, an interval in practice, not an interval in distance—I count as the German store wagoners do, by hours, not by miles."

Then, after a brief reference to how the Whigs "always toasted the constitution, church and state," he returned to the "difficulty . . . of distance; it is as the squares of the distances; I should not be far wrong if I should say it was as the cube—it is like the misery of wearing spectacles and taking care of a spectacle case—it is as the square of the diameters." From there, he made a quantum leap to the Dismal Swamp Canal bill and then to the gerrymanderings of states into districts by "canals and roads for the purpose . . . of pleasing men, and not for doing good to the public . . . for the purpose of making a job . . . all the other cows in our pen having ceased to give any milk." He then turned to the construction of roads in Ireland, "where they have the finest roads in the world," but they "were not intended for the benefit of the Irish." Randolph bemoaned the "taxes imposed on the poor Irish. What is it to them," he asked, "whether there are roads or not, who go with naked feet?" The subject turned abruptly to floods and droughts. Regarding drought, the difficulty was in getting "the earth to act as a condensor, not as a repeller and evaporator—*c'est le premier pas qui coute*—then, sir, it never rains—but it pours." Randolph then averred that "we are to take our measures for man as he is—not the creature he is described to be . . . in Eutopias, Atlantus's or in romances of any sort." In the fortification of a town, every man would pursue his own interests and make out his own case. "Leave it to a committee of carpenters", he declaimed, "and a bill will be brought in to fortify the city with wood; leave it to the tanner, and it will be leather; leave it to the stone-mason, and it will be stone." Randolph continued: "Then comes this bog trotter, with his spade on his shoulder, and his wheelbarrow in his hand, and says there is nothing, my dear sir, like turf—all fortifications should be made of turf."

Randolph acknowledged that he had "fallen into a bad habit, when addressing the Senate, of saying too much—*ne quid nimis*," and then plunged right in to a reference to "the people." And who were the people, he asked rhetorically, and then proceeded to provide his own answer: "They who are now turning the furrow and whistling—I hope they have the heart to whistle—while their corn is putting in the ground, and they are giving it the first working." These were the people, allowed Randolph, "out of whose corn houses the horses and asses of Washington are to be fatted."

Then followed a long discourse on slavery and life in the South, and the statement that there was "not a family in the State of Virginia, who, in point of fine mahogany furniture, Turkey carpets, expensive wine, great show . . . who maintain a style of expense equal to that, I won't say of a chief clerk, but a secondary clerk in our departments here."

In his address to the Senate, Randolph said that he had been held up "as any man will be who speaks his mind fairly and boldly, without any qualification, as a blackish sort of a white, and a whitish sort of a black—as an advocate for slavery in the abstract." Then he spoke admirably of Britain's Lord Liverpool who, he said, felt his way "as every wise statesman and physician does" instead of rushing onward "like a rash young man, just come to his estate—put a beggar on horseback and he will ride to the devil . . . who spends, and thinks he cannot get rid of it quick enough, and instead of ten years finds it does not last two."

The vast expanse of Randolph's loquacity knew no limits. "What is the Baconian philosophy?" queried the Senator. "A philosophy of induction—of severe reasoning founded on severe experiment—founded not on one experiment" but on many. "Sir Joseph Banks," he announced, "made but one experiment to make the fleas into lobsters, according to Pindar, but they would not become lobsters, damn their souls." Wondered the irrepressible Randolph, "how do you know, if he had made another experiment, but he would have succeeded—perhaps the want of some acid or alkali prevented it."

Nor was the press to escape his excoriation. "The press is at this moment bribed—it is in the hands of some of the most profligate men of this country." As to abuse in the newspapers and anonymous letters, he never wasted his time on them. "Any man," declared Randolph, "who will write an anonymous letter in the newspaper which he is afraid to own, would, if you would give him the opportunity, put poison in your drink." Hence, as we can see, Randolph's speech was a stellar performance in verbal gymnastics, but there was never a word about circuit judges! [11]

Randolph served in the Senate less than fifteen months, having been appointed to fill an unexpired term. Failing of reelection to the Senate, he was again elected to the House and later served a brief stint as Minister to Russia, a post from which he shortly resigned. He was once more elected to the House, where he had served less than three months of his term when he died on May 24, 1833. Thus ended the life and career of this complex man whose volcanic temperament and virulent tongue could well have made him, in a later age, the arch-filibusterer of them all.

The dawn of complicated procedural filibustering in the Senate was yet a long way off when, at the opening of the Twenty-seventh Congress on March 4, 1841, the Whig majority determined to get rid of the Senate's official printers, Blair and Rives. A motion by Senator Willie P. Mangum of North Carolina to dismiss the printers of the *Globe* was debated from March 5 until March 11. The debate developed into a "prolonged and acrimonius contention, relevant to the subject but spun out by the Democrats through lengthy arguments based on grounds of constitutionality and expediency." [12] Among the most noted of the Democratic combatants were Senators John C. Calhoun of South Carolina, Thomas H. Benton of Missouri, William R. King of Alabama, and James Buchanan, who was later to become president. The arguments were lengthy and heated, with King and Senator Henry Clay of Kentucky engaging in personal and scathing terms, as the following exchange will attest:

> Mr. Clay. If there was no other ground for his [Mr. Blair's] dismissal, he (Mr. Clay) would go on the ground of infamy of character of the print and the Printer . . . and let him tell Senators that, the other day, when the late [former] and the present President, in a manner so honorable to themselves, were exchanging courtesies with each other—a spectacle with which every manly man must be gratified—that day was fixed upon by this *Globe*, as a foreign minister told him—for he (Mr. Clay) scarcely ever saw the dirty sheet—that day this man . . . selected to issue a tirade of abuse and scurrility against the President in power . . . It was but an attempt to prolong their [the Democrats'] power . . . and to force on them (the present [Whig] majority) unacceptable, unwelcome Printers . . . The time had now come, and he trusted they [the Whigs] should avail themselves of it, and . . . adopt the resolution. . . . Mr. King of Alabama said he was not disposed to enter into a long argument. . . . his indig-

nant feelings would not permit him to reply to the imputation of motive by which it was alleged his side of the [Senate] were actuated. Such imputations were unworthy of the person who uttered them. . . . But who is this Mr. Blair, who has been so violently assailed on this floor? If his (Mr. King's) recollection served him aright, this man Blair resided years gone by in the State of Kentucky. . . . He was then the political friend of the Senator from Kentucky; his intimate associate. . . . Was he infamous then? He presumed not. He (Mr. King) knew nothing of Mr. Blair . . . until he made his appearance in this city some years past. Since that time, he had been on terms of social intercourse with him—had observed his conduct . . . and he felt bound to say, that for kindness of heart, humanity, and exemplary deportment as a private citizen, he could proudly compare with the Senator from Kentucky, or any Senator on this floor by whom he has been assailed. . . .

. . . Mr. Clay of Kentucky said . . . he believed the *Globe* to be an infamous paper, and its chief editor [Blair] an infamous man. . . . But a Senator [Mr. King], who he supposed considered himself responsible, had gone a step further, and had chosen to class him (Mr. Clay) with Blair, and to consider Blair as equal to him in every point of view—in reputation and every thing else . . . and for the Senator from Alabama [Mr. King] to undertake to put him on an equality with Blair, constrained him to say that it was false, untrue, and cowardly.[13]

Clay's words were so offensive that King challenged him to a duel. Clay who had once dueled with John Randolph, accepted the challenge. The duel was averted only when the warring Senators were brought before a magistrate and placed under a peace bond. The March 11, 1841, *Newark Daily Advertiser* had this to say:

"What a humiliating spectacle for the world to contemplate! Two American Senators arrested in the very temple of Liberty on an errand of *murder*!—How long will public sentiment tolerate men who thus publicly set at defiance the laws of God and man, and contemptuously violate the moral sense of the nation, in the very Halls consecrated to its protection!"

The obstruction wore down and the filibuster ended in defeat for those who launched it. The printers were dismissed.

Four months later, another delay occurred, this time on a bank bill, dear to the hearts of the Whigs but anathema to the Democrats. On June 21, Clay announced the report of the bill from a committee, but to the disappointment of Clay and other Whigs, the Democrats proceeded to debate the bill at length. On July 15, an annoyed Clay announced that the majority should control the business of the Senate and that he would offer legislation to that end, believing that a limitation of debate would carry. King of Alabama demanded to know whether Clay really intended to introduce such a measure to throttle debate.

Clay responded, "I will, sir; I will." King's defiant reaction was blunt. "I tell the Senator, then, that he may make his arrangements at his boarding house for the winter."

The threat of a filibuster was unveiled and clear. An indignant Benton blasted the "design to stifle debate."

"Sir," he declared, "this call for action! action! action! . . . comes from those whose cry is, plunder! plunder! plunder!" Calhoun, denouncing "a palpable attempt to infringe the right of speech," let it be known that he would resist any gag attempt.

Clay never pursued his announced proposal for limiting debate, as other Whig senators indicated that they would not support such a move. Debate on the bank bill ended with its passage finally on July 28.[14]

Five years later, in 1846, there occurred a lengthy debate on the question of termination of the treaty with Great Britain concerning the Oregon territory. Long speeches delayed a decision for more than two months until the Senate finally passed the resolution, and a peaceful settlement of the Oregon boundary was reached.[15]

Also in 1846, war with Mexico was declared, and President Polk asked Congress for an appropriation of $2 million which he intended as an initial payment to Mexico for territory that he hoped the Mexican government would ultimately be willing to cede to the United States. The House approved the request but attached the Wilmot Proviso, so named for its author, David Wilmot of Pennsylvania, prohibiting slavery in any territory so acquired. The appropriation bill came up in the Senate on the morning of August 10, noon being the hour set for final adjournment. Senator Dixon Lewis of Alabama moved to strike out the antislavery provision, whereupon Whig Senator John Davis took the floor. In the meantime, the House adjourned, leaving it up to the Senate to accept the amendment, else the appropriation would not become law. Davis talked the bill to death, saying that if the bill passed, the President "will feel justified in prolonging the war until . . . additional territory is acquired." Polk renewed his request for the money in December when Congress reconvened. Fierce debate again ensued. Senate delays tied up the appropriation for more than a month, but finally the bill, minus the Wilmot condition, was approved.[16]

On January 16, 1850, Senator Henry Foote of Mississippi introduced an omnibus bill to organize the Western territories, including California, Mexico, and Deseret—a vast area extending from present-day Arizona and Nevada to Utah, and proposing the separation of Texas into two states. Southern representation would be increased in the Senate, mitigating the admission of California as a free state. The Judiciary Committee, on the same day, reported a bill to toughen regulations governing the capture and return of fugitive slaves. These proposals, together with northern demands for an end to slavery in the District of Columbia and southern demands for a new fugitive slave law, set the stage for the historic debates which culminated finally in the compromise of 1850. Henry Clay unveiled a set of eight compromise proposals which he believed would settle the slavery issue for many years. The Senate wrangled, and Clay complained bitterly of the long delays: "To postpone, to delay, to impede, to procrastinate, has been the policy of the minority in this body. . . ."

Finally, legislation passed the Senate after the admission of California and other proposals were stricken, and only the provision for the territorial government for Utah remained. Senator Stephen A. Douglas of Illinois then pressed for passage of a bill to admit California. That measure quickly encountered sudden and stiff resistance. "Dilatory motions to adjourn, postpone, lay on the table, amend, and so on were employed, although by no means exploited to their full possibilities." The bill for California's admission passed on August 13, and the other compromise measures were adopted before the session ended. As soon as one proposal was settled, Douglas brought up the next. Where Clay had failed to secure passage of his omnibus package of compromises, Douglas succeeded in their enaction as separate proposals, piece by piece.[17]

On Monday, January 26, 1863, Senator Lyman Trumbull of Illinois, Chairman of the Judiciary Committee, called up a House bill to indemnify the President and other persons for suspending the writ of *habeas corpus*.[18] The legislation was considered necessary by the administration for the effective prosecution of the war. The bill was being considered as in Committee of the Whole on January 27, when Senator Willard Saulsbury of Delaware, in lengthy remarks, referred to President Lincoln as "a weak and imbecile man; the weakest man that I ever knew in a high place." Saulsbury, stating that he had conversed with the President, repeated his assertion, "I never did see or converse with so weak and imbecile a man as Abraham Lincoln, President of the United States." Other senators charged Senator Saulsbury with transgressing the rules of the Senate, and the vice-president, after Saulsbury accused other senators of "blackguardism," ruled the senator out of order "in attributing such language to members of the body," and ordered him to "take his seat."[19] Saulsbury appealed the ruling of the Chair and proceeded to speak on the appeal, in the course of which he again attacked the president, saying, "if I wanted to paint a tyrant; if I

wanted to paint a despot . . . I would paint the hideous form of Abraham Lincoln." The vice president then ruled that Saulsbury's remarks were not pertinent to the question of order and again ordered him to take his seat, whereupon Saulsbury shouted, "The voice of freedom is out of order in the councils of the nation!" The vice president then instructed the sergeant at arms to take Saulsbury in charge "unless he observed order." Saulsbury's response was, "Let him take me," and the vice president ordered the sergeant at arms to "take the Senator in charge." The *Congressional Globe* shows that the assistant sergeant at arms, Isaac Bassett approached Mr. Saulsbury, who was seated at his desk, and, after a brief conversation, they left the Senate Chamber. The vice president then put the question on the appeal, and the decision of the Chair was sustained.[20] The debate continued on the *habeas corpus* bill, during which debate Senator Saulsbury persisted in his attempts to speak without leave of the Senate after having been ruled out of order. The Presiding Officer again ordered Saulsbury to take his seat and, upon the Senator's refusal to do so, gave the order to the sergeant at arms to "take the Senator in charge." Saulsbury then said, "Let him do so at his expense." Here, the *Globe* records that the sergeant at arms approached Mr. Saulsbury, who was sitting at his desk, and that "It was understood that Mr. Saulsbury refused to retire, but at a subsequent period he left the chamber," a rather bland portrayal of what had, in reality, taken place, for Saulsbury, in a scene reminiscent of the Foote-Benton altercation in April 1850, had brandished a gun and threatened to shoot the sergeant at arms on the spot. Later in the day, Saulsbury again returned to the Chamber and sought to gain the floor and was again told by the Presiding Officer to take his seat. At this point, a roll-call vote occurred on an amendment, after which the *Globe* shows no further interruptions by Saulsbury.[21]

On the following day, January 28, Senator Daniel Clark of New Hampshire offered a resolution to expel Saulsbury from the Senate, the resolution charging Saulsbury with having brought into the Senate "a concealed weapon," having behaved "in a turbulent and disorderly manner," and having drawn "said weapon" and threatened "to shoot [the] Sergeant-at-Arms." Senator Clark asked that the resolution lie over until the next day.[22] On Thursday, the 29th, Saulsbury apologized to the senate, not for what he had said about President Lincoln but for the "violation of the rules of the body," following which Senator Clark announced that he would not proceed with his expulsion resolution, and the matter was dropped.[23]

The *habeas corpus* bill had passed the Senate on January 27 and had gone to a House-Senate conference. The conference report was laid before the Senate on March 2. A heated debate again occurred, with Senator William A. Richardson of Illinois threatening to "express, at length, our opinions in reference to this whole measure, to which we are opposed." Senator Lazarus W. Powell of Kentucky expressed resentment at "an imputation that our object was to do what is commonly called filibustering."[24]

The debate went on throughout the day of Monday, March 2, with motion after motion to adjourn. At about 5 o'clock in the morning of Tuesday, March 3, Republican Senator Samuel C. Pomeroy of Kansas was presiding when a heavy-handed parliamentary action took place. Immediately following a roll-call vote rejecting a motion to adjourn, Mr. Pomeroy, in a voice scarcely audible, put the question: "The question is on concurring in the report of the committee of conference. These in favor of concurring in the report will say 'ay'; those opposed 'no.' The ayes have it. It is a vote. The report is concurred in." Senator Trumbull moved quickly to take up another bill, and the motion was agreed to. Several senators had not heard the Chair submit the question on the adoption of the conference report, and, amid the confusion, when Trumbull moved to consider another matter, Senator Powell, unaware that the report had already been agreed to by a voice vote, insisted that the consideration of the conference report be continued and that he desired the yeas and nays on its passage. A heated discussion then occurred over what had transpired and was ended only by an adjournment until noon of the same day, Tuesday, March 3.[25]

When the Senate reconvened at noon, the heated discussion was renewed, with the opponents of the *habeas corpus* bill insisting on reconsideration and a vote. When it was pointed out that the enrolled bill had already been signed by the Speaker and the Senate President pro tempore[26] and was on the way to the White House, a staged vote was arranged on a motion requesting the House to return the bill to the Senate for reconsideration, which, of course, was by now impossible of execution. This was done, nonetheless, as a way of having a test vote which would give senators opposed to the bill a way of going on record against it. The motion requesting return of the bill was rejected by a vote of 13 to 25.[27]

The unsuccessful filibuster of 1863 was "the first in Senate annals which can be said without shadow of doubt to have been truly intense,"[28] and it failed because of slick maneuvering by the majority in the face of a small but determined minority.

The next filibuster of equal or greater magnitude occurred sixteen years later, in 1879. It marked a forward development in the attempt to deal with obstructive tactics. On June 16, the Senate proceeded to take up a House appropriation bill containing a provision that no money in the act could be paid "for the subsistence" of the army "to be used as a police force to keep the peace at the polls at any election." On Tuesday, the 17th, debate got underway and continued on the 18th.

Republicans scathingly attacked the provision, with Senator Roscoe Conkling of New York leading the opposition. Repeated motions to adjourn, points of order, appeals, motions to table, motions to instruct the sergeant at arms, and breaking of quorums went on incessantly throughout the night until the Senate adjourned at 11:51 a.m. on Thursday, June 19, to reconvene nine minutes later at noon.[29]

When the dust from the all-night wrangling had settled, thirty roll-call votes and nine quorum calls had occurred after six o'clock p.m., Wednesday evening, with little else to show for the all-night session. On Friday, tempers had subsided, and the bill was passed shortly before two o'clock a.m. on Saturday, June 21.

The bitter filibuster had produced two minor but progressive developments in the Senate's experience with obstructive tactics in parliamentary warfare. On Thursday, June 19, when the Senate reconvened at noon following the all-night Wednesday session, the following occurred:

The President pro tempore called the Senate to order and said: "The Chair is informed by the journal clerk that owing to the length of the session yesterday and its prolongation during the night, the Journal . . . has not been finished; and the Chair suggests that the reading of it be dispensed with until it be finished."

Mr. CONKLING. "I object, Mr. President; and I insist upon the observance of the . . . rule . . . which requires the Chair to cause the Journal to be read, first of all, after calling the Senate to order."

The PRESIDENT pro tempore. "The Journal can be read as far as it is made up; but what is not made up cannot be read. The Clerk will read the Journal as far as it is made up."

Mr. CONKLING. "I object to anything being done until the Journal is read."

The PRESIDENT pro tempore. "The Journal will be read as far as it is made up."

Mr. CONKLING. "There will not be anything done until the rest of it is read."

The Journal of yesterday's proceedings was read in part.

The PRESIDENT pro tempore. "Petitions and memorials are now in order."

Mr. CONKLING. "Has the Journal been read?

The PRESIDENT pro tempore. "All that has been written up has been read."

Mr. CONKLING. "I submit to the Chair that the rule requires that the Journal of the preceding day's proceedings shall be

read. I demand the reading of the whole of those proceedings, and object to anything being done until the Journal is read. . . . "

The PRESIDENT pro tempore. "It is the opinion of the Chair that the Senate cannot be prevented from transacting business by a failure to write up all the Journal, and that the rule does not require an impossibility. As far as the Journal has been written up it has been read. The rest of it, in the opinion of the Chair, must be read hereafter. Therefore, the Chair overrules the point of order made by the Senator from New York."

Senator Conkling appealed the Chair's ruling, and Senator Frank Hereford of West Virginia moved to table the appeal. On a roll-call vote, the appeal was tabled, 33 to 4. A quorum not having voted, the Chair directed the clerk to call the roll to establish a quorum. Forty-eight senators, a quorum, being present, the question recurred on the motion to table the appeal of the ruling of the Chair. The vote was 26 to 4 in favor of tabling. No quorum having voted, the clerk again called the roll of senators and fifty-two senators answered their names. The roll-call vote again recurred on the motion to table Conk- ling's appeal of the Chair's ruling, and the vote in favor of tabling was 32 to 3, again no quorum. At this point, Senator Thomas F. Bayard, Sr., of Delaware asked that Senator Zachariah Chandler of Michigan, being present but not having answered to his name, be required, under the rule, to assign his reasons for not voting, to which the Michigan Senator responded that he viewed this "as an attempt in an unconstitutional manner to overturn . . . a standing rule of this body that cannot be overturned except in the regular way, and I will not vote to make a quorum to do an unconstitutional and wrong act." The presiding officer then stated it to be his duty to put the question to the Senate, "Shall the Senator from Michigan, for the reasons assigned by him, be excused from voting?" The yeas and nays were ordered and the vote was 33 to 0 that the senator not be excused. Again no quorum had voted, obviously because several senators who were present had remained silent, declining to vote when their names were called. The President pro tempore then announced:

"No quorum has voted. The Chair has counted the Senate. There is a quorum present, but no quorum voting. . . .

. . . The Chair does not think the fact that a quorum has not voted is conclusive evidence that a quorum is not present. On the contrary, in the opinion of the Chair, he has a right to count the Senate. He has counted the Senate and found that a quorum is in attendance; but a quorum has not voted." [30]

Thus, the Chair had ruled that the Senate could not be prevented from doing business when the Journal of the previous day had unavoidably not been completed; and that, on a call to establish the presence of a quorum, the Chair could count a quorum if one were physically present, though silent—a tactic known as "quorum-breaking." Republicans had effectively used the tactic, sitting in their seats and declining to answer to their names on roll-call votes so as to produce a no-quorum situation, and then answering to their names on the quorum call that automatically followed.

Filibusterism had come to full flower in the Senate, but precedents, though weak at the beginning, were being shaped to gnaw at its branches, if not yet at its roots. "To count a quorum present to allow the Senate to proceed to business, and to count a quorum on a vote in order to declare a motion carried, are different things." [31] The first step had been taken; the second step would await the passage of almost thirty years.

In the closing days of the 46th Congress, the Democrats attempted repeatedly to take action upon nominations submitted by outgoing President Rutherford B. Hayes, but Republicans, in the minority, demonstrating their adeptness in the use of the filibuster weapon, refused to consider the appointments and resorted to obstructionist tactics to delay action until the new president, James A. Garfield, could fill the vacant offices. The Senate that met on March 4, 1881, was evenly divided with thirty-seven Republicans, thirty-seven Democrats, and two Independents. In Volume I of *The Senate; 1789-1989*, I have already related the events which led to the victory of the Republicans when Senator William Mahone of Virginia, representing a breakaway faction within his state's Democratic Party, known as the "Readjustors," joined with the Republicans to control the Senate. The shoe was then on the other foot, and the Democrats filibustered with a vengeance. When New York Republican Senators Roscoe Conkling and Thomas C. Platt resigned because of a patronage quarrel with President Garfield, the deadlock was broken. The Democrats had a two-vote majority and, in the interest of wrapping up the session, they agreed not to reopen the question of committee control. In return, the Republicans permitted the Democrats to maintain control of the Senate's officers and patronage.[32]

Another celebrated filibuster was launched when a so-called "Force Bill" was called up in the Senate by Senator George F. Hoar of Massachusetts on December 2, 1890. The bill provided for federal supervision of Congressional elections and was directed against Negro disqualification and intimidation in the southern states. Republicans saw the legislation as a way to make political gains in the south, while, to Democrats, it represented an attack on states' rights. Democrats gave lengthy Senate speeches and resisted the bill with might and main. On December 23, Senator Nelson W. Aldrich of Rhode Island introduced a resolution making it in order for any senator, after a matter had been considered "for a reasonable time," to demand that debate be closed, after which, without further debate, a vote would occur on cloture. The resolution provided for majority cloture, following which no motions other than to adjourn or recess would be in order and no proceedings respecting a quorum would be in order except when, on a division or roll-call vote, a quorum was shown to be lacking. Every Senator would be limited to one speech and "not exceeding thirty minutes." [33]

The debate continued up to December 24, when there was a brief respite until Monday, December 29, followed by another short recess from the close of business on December 31 until Monday, January 5, 1891, when the Senate set aside the elections bill to take up currency legislation. Action was completed on the currency bill on January 14, after which the Senate returned to the elections bill. The vote to proceed to the bill was a tie, 33 to 33, broken only by the casting vote of Vice President Levi P. Morton in favor. The Democrats, who thus far had resorted only to speech-making, resolved to talk until the session ended on March 4. The Republicans were determined to overcome the minority by keeping the Senate in continuous session, and it became a contest of physical endurance. Throughout the day and night of Friday, January 16, until 6 p.m. on Saturday, the 17th, the Senate was in session, with Senator Charles J. Faulkner of West Virginia nominally holding the floor for eleven and one-half hours, during which the Senate was unable to muster a quorum for approximately eight hours. Not until 9:30 a.m. was the Senate able to maintain a quorum.[34] Between the hours of midnight Friday and 9:30 a.m. Saturday, the roll was called eight times, on procedural matters only. The sergeant at arms was ordered to request the attendance of absent senators, and he reported to the Senate that seven members were too ill to comply, one said he was "much too fatigued to attend," others would not answer the knock at their doors, Senator Matthew Butler of South Carolina simply "refused to obey the summons," and Senator James H. Berry of Arkansas "requested me to report to the Senate that he would come when he got ready." [35]

After this exhausting session proved beyond the endurance of the majority, the Republicans abandoned the strategy of continuous session, and they concentrated, instead, on Aldrich's proposal for cloture which he called up on January 20, 1891. At 2 o'clock, the elections bill, being the unfinished

business, was laid before the Senate by the vice president, thus displacing the resolution on the rules change.[36] Concerned that a way would be found to throttle debate, the Democrats worked feverishly to find a way to displace the hated Force bill and, by allying themselves with the silverites, they were able to accomplish this. On Monday, January 26, Senator Edward O. Wolcott of Colorado moved to proceed to a bill making an apportionment of Representatives in Congress, the motion carrying by the narrow vote of 35 to 34.[37] The filibusterers had succeeded in killing the Force bill in a battle waged from December 2 to January 26.

In August 1893, a filibuster erupted on legislation to repeal the silver purchase provisions of the Sherman Silver Purchase Act. The country was in the midst of a financial panic, and the administration of Grover Cleveland supported repeal. Congress was called into session on August 7, and Senator Daniel W. Voorhees of Indiana, known as the "Tall Sycamore of the Wabash," led the fight for the administration. On August 29, Voorhees reported the House bill in the Senate and the filibuster began. Republican Senator Fred T. Dubois of Idaho was one of the leaders of the obstructionist alliance in which silver Republicans joined with silverites and "farmer" Democrats. The President had recommended repeal of the law. "Lines of battle were drawn; against the financial East, stood the Far West and most of the South. Silverites from the latter sections demanded more silver, not less. Free and unlimited coinage was their goal, their panacea for the financial ills of the country." [38]

On Wednesday, October 11, the Senate met a 11:00 a.m., and remained in session thirty-eight hours and forty-five minutes before adjourning at 1:45 a.m. on Friday, the 13th, during which time there were four roll-call votes and thirty-nine quorum calls, twelve of the quorum calls occurring between 6:20 p.m. Thursday and the adjournment at 1:45 Friday morning. Senator William V. Allen of Nebraska held the floor throughout Wednesday night until almost 8 a.m. on Thursday, when, "after having spoken some fourteen hours with interruptions" from eleven quorum calls, one roll-call vote, and speeches by colleagues, he surrendered the floor. On Monday, October 16, the Senate met from 11:00 a.m. until 10:00 p.m. Twelve roll-call votes and thirteen quorum calls occurred. The tactic of "breaking quorums" was blatantly resorted to by unabashed filibusterers. The yeas and nays would be demanded and seconded, then the obstructionists would remain silent when their names were called. Less than a quorum voting, the presiding officer would announce that no quorum was present though a plain quorum was in sight, and then he would order the clerk to call the roll for a quorum. A quorum would answer. The roll-call on the vote would then recur, and, again, the filibusterers would decline to vote. Over and over again, hour after hour, the ludicrous scene would repeat itself.

Finally, on October 24, the filibusterers yielded and a vote on passage occurred six days later, on October 30, the bill passing by a vote of 43 to 32. "For forty-six days, then, the filibusterers had performed upon the Senate stage; and the endeavor failed only because some of its participants deserted the enterprise." [39] Democrats had felt the pressure from the Administration and surrendered, leaving silverites too few in number to carry on the fight.

On March 3, 1897, Senator Matthew S. Quay of Pennsylvania conducted a one-man filibuster, hoping to include in a naval appropriation bill a maximum purchase price of $400 per ton for armor plate. On March 1, Quay had moved unsuccessfully to table an amendment by Senator William B. Chandler of New Hampshire lowering the price to be paid for armor from $400 to $300. Quay decided to filibuster the conference report on the naval appropriation bill when it came back to the Senate, hoping that, with the March 4 adjournment deadline approaching, he could force the Senate to agree to a figure higher than $300. On the night of March 3–4, Senator Quay, even before the conference report was ready for Senate action, put the Senate through one quorum call after another. When the Senate overrode the president's veto of a private relief bill by a vote of 39 to 7, with forty-four senators not voting, Senator Quay immediately suggested the absence of a quorum. Irritated senators made points of order that Quay was out of order in doing so. The Chair ruled that, when the presence of a quorum has been established by a roll call and no business has intervened, a Senator can not immediately thereafter suggest the absence of a quorum.[40]

In the end, Quay's efforts proved to be in vain, as the House receded from its position in support of $400 per ton for armor plate and concurred in the Senate's lower figure. Senator Quay had prepared a lengthy speech with which to wear down his colleagues, but, in the face of this sudden turn of events, he contented himself by inserting his remarks—filling 176 pages of the Congressional Record![41] But another arrow had pierced the armor plate of the filibuster; henceforth, following a roll call that shows a quorum present and without intervening business, a point of no quorum cannot immediately be made.

On the night of March 3, 1901, Senator Thomas H. Carter of Montana waged a successful filibuster against a rivers and harbors appropriation bill. With the automatic adjournment deadline of noon the next day, March 4, the outcome sought by Carter was a sure bet. He protested the bill's funding for small improvements. The bill went to its defeat.[42]

During consideration of an appropriation bill on the night of March 3, 1903, Senator Benjamin R. "Pitchfork Ben" Tillman of South Carolina demanded the inclusion for his state of some $47,000 as a claim for expenses incurred in the war of 1812 and threatened to filibuster to the death of all bills before the Senate by talking until the noon adjournment the next day. At his desk was a pile of books, and opened for use was a volume of Byron's poems. The Senate capitulated in the face of this threat, and the $47,000 was included in the bill.[43]

When the conference report on the Deficiency Appropriations Bill came up in the House, Representative Joseph G. Cannon of Illinois, speaking for the House managers, deplored the Senate rules which permitted a single member, by threat of a filibuster, to impose his will on a majority of both Houses. Cannon said that the auditing officers of the treasury, in the adjustment of accounts, had found due to the State of South Carolina "the sum of 34 cents," but the Senate had proposed "granting to the State of South Carolina $47,000." Stating that the House conferees had objected, Cannon said that, in the House, "we have rules . . . by which a majority, right or wrong, mistaken or otherwise, can legislate." In the Senate, he said, there were no such rules, and that "an individual member of that body can rise in his place and talk for one hour, two hours, ten hours, twelve hours." The House conferees, Cannon said, were unable to get the Senate to recede from "this gift . . . against the law, to the State of South Carolina." Cannon delivered a scathing condemnation of the Senate rules:

> By unanimous consent another body [the Senate] legislates, and in the expiring hours of the session we are powerless without that unanimous consent. "Help me, Cassius, or I sink!"
>
> Unanimous consent comes to the center of the Dome; unanimous consent comes through Statuary Hall and to the House doors and comes practically to the House. We can have no legislation without the approval of both bodies, and one body . . . can not legislate without unanimous consent. . . . Your conferees had the alternative of submitting to legislative blackmail at the demand, in my opinion, of one individual . . . or of letting these great money bills fail. . . .

Cannon went on to say that, in his opinion, the Senate "must change its methods of procedure" or the House, "backed up by the people, will compel that change," else the House would become "a mere bender of the pregnant hinges of the knee, to submit to what any one member of [the Senate]

may demand of this body as a price for legislation."

Representative Cannon concluded his remarks to prolonged applause and cheers, but Senator Tillman's filibuster threat had prevailed.[44]

On March 2, 1907, as the 59th Congress was coming to its close, Senator Jacob H. Gallinger of New Hampshire sought to push legislation to increase the subsidy to American merchant shipping. Other senators opposed the subsidy as an enforced burden on the taxpayers. A Senate filibuster immediately threw a dark cloud over the adjournment landscape. Democratic Senator Edward W. Carmack of Tennesee, who was retiring from the Senate, took the floor on Sunday, March 3, and his obstructive loquacity consumed the day and evening of Sunday and he showed up ready to unload his vocal guns on the subsidy target when the Senate met early the next day. Senator Gallinger, not wishing to see other legislation sacrificed in the remaining few hours of the dying session, abandoned the bill. Carmack had triumphed (he died in a gun fight in Nashville twenty months later), and "Senators had learned well the futility of opposing a determined filibuster in a short session immediately before the automatic 4th of March adjournment." [45]

On Friday, May 29, 1908, the conference report on the Aldrich-Vreeland bill to amend the national banking laws was laid before the Senate on motion by Senator Nelson W. Aldrich of Rhode Island. A brief but bitter filibuster ensued, and out of it came some significant interpretations of the Senate rules that would henceforth strengthen the hands of opponents of filibustering. Filibusters on conference reports are inherently much more difficult to successfully wage than on bills because conference reports are not amendable, and that circumstance was a parliamentary disadvantage to the opponents of the banking legislation who saw it as benefiting the moneyed interests of the country. Republicans saw it as a way to deal with bankruptcies and other pressing financial problems facing the nation. Senator Robert M. LaFollette of Wisconsin, a Republican who distrusted Aldrich, led the opposition to the conference report. LaFollette immediately took and nominally held the floor for more than eighteen hours.[46] However, during that time, his lengthy speech was interrupted often for colloquies, three roll-call votes and twenty-nine quorum calls, twenty-four of which LaFollette himself demanded.[47] In those days, senators holding the floor did not lose the floor when quorum calls occurred, and LaFollette resorted repeatedly to the tactic of suggesting the absence of a quorum so as to force the majority to maintain a quorum while, at the same time, LaFollette was resting during the time consumed by the quorum calls. That LaFollette's tactics were not popular among his colleagues was evident from the interruptions of his speeches and the numerous parliamentary inquiries and points of order that were made during the many hours he held the floor.

Senator Aldrich, in managing the conference report, proved to be an astute floor manager and a resourceful opponent of filibustering. Important precedents were established as effective weapons in debating with obstructionist tactics. After the Senate had been paralyzed for hours by LaFollette's torrent of words and time-consuming quorum calls, Aldrich rose to a question of order: "We have had 32 roll calls within a comparatively short time, all disclosing the presence of a quorum. Manifestly a quorum is in the building. If repeated suggestions of the want of a quorum can be made without intervening business, the whole business of the Senate is put in the hands of one man, who can insist upon continuous calls of the roll upon the question of a quorum. My question of order is that, without the intervention of business, a quorum having been disclosed by a vote or by a call of the roll, no further calls are in order until some business has intervened."

Mr. LAFOLLETTE. "Mr. President, I just wish to suggest, in order that it may appear upon the Record that debate has intervened since the last roll call."

Mr. ALDRICH. "That is not business . . . My suggestion was that debate was not business."

The vice president then submitted the question of order to the Senate and, by a vote of 35 to 8, Aldrich's point of order was sustained. Subsequently, Senator Lee Overman of North Carolina inquired of the Chair "whether, after a speech has been made," the question of a quorum could be raised, to which the vice president replied, "The Chair is of the opinion that that is not in order." [48]

Thus, the Senate had taken an important step beyond the precedent of March 3, 1897, when Senator Quay had attempted a quorum call immediately after one had just been concluded and had been ruled out of order, in which instance no debate had intervened. Hence, the net had been drawn tighter by Aldrich.

Another signal precedent had been set in the 1908 session; namely, the Chair would count silent members present in the chamber in order to validate a division or roll-call vote on which a quorum did not vote. This evolved from a situation in which Senator Charles Culberson of Texas had the floor and was speaking when Senator Lafollette rose to make a parliamentary inquiry of the Chair:

The VICE PRESIDENT. "Does the Senator from Texas yield to the Senator from Wisconsin?"

Mr. CULBERSON. "I prefer to go on, Mr. President."

Mr. LAFOLLETTE. "It is not necessary for the Senator from Texas to yield to the Senator from Wisconsin when the Senator from Wisconsin rises to a parliamentary inquiry."

Mr. ALDRICH. "I make the further point of order that in order to make a parliamentary inquiry a Senator must be in possession of the floor, and that he can not take the floor by asking to make a parliamentary inquiry and then make any motion."

The Chair ruled that Aldrich's point of order was well taken and LaFollette appealed the ruling, stating that "a hundred times" he had seen senators rise and, "without any assent upon the part of the Senator who had the floor, raise the question that no quorum was present." "Is it possible," he asked, "that important proceedings in the Senate, if one man can get the floor, may be conducted here for an unlimited period of time in the presence of the Presiding Officer and one single Senator, he declining to yield the floor?"

Senator Aldrich moved to table the appeal, and, on a division, the appeal of Senator LaFollette was tabled by a vote of 32 to 14. Senator Thomas P. Gore of Oklahoma then said that the division disclosed that a quorum was not present.

The VICE PRESIDENT. "The division disclosed the existence of a quorum."

Mr. GORE. "It takes forty-seven to constitute a quorum . . . I should like to say that there are ninety-two members of this body . . . A division disclosed the presence of forty-six. As I understand, it takes one more than half to constitute a quorum."

The VICE PRESIDENT. "There was present a Senator who did not vote . . . the Chair has counted the Senate, and there is a quorum present." [49]

So, here again, a former precedent, that of June 19, 1879, in which the Chair had counted a quorum to determine whether enough senators were present to do business, had now been expanded to include a count by the Chair to declare a vote valid in acting on the business of the Senate, even though a quorum of members had not actually voted.

The forces of Aldrich prevailed and the conference report was adopted on May 30, 1908, but one other aspect of this historic, but brief, filibuster should be mentioned. Senator Aldrich's parliamentary acumen was demonstrated when he sought and obtained the yeas and nays before all debate had been concluded. As a consequence, the Senate was ready for quick action in proceeding to an immediate vote if an opportunity should come when no senator held the floor, thus bringing the obstruction to a sudden end. The usual course was to order the yeas and nays after all debate had ceased and just prior to taking the vote. The utility of Aldrich's forethought was evident at a

later time when Senator Gore, who was blind, completed speaking and the vice president immediately put the question on adopting the conference report. Aldrich's name being at the top of the alphabet, he promptly responded. Senator Weldon Heyburn of Idaho sought in vain to get recognition.

The VICE PRESIDENT. "The question is on agreeing to the report of the committee of conference."

Mr. ALDRICH. "I ask that the roll be called."

The VICE PRESIDENT. "The secretary will call the roll."

Mr. HEYBURN. "Mr. President—"

The secretary proceeded to call the roll and Mr. Aldrich responded to his name.

Mr. HEYBURN. "I addressed the Chair before the commencement of the roll call."

Mr. ALDRICH. "The roll call cannot be suspended."

Mr. HEYBURN. "I do not ask that it be suspended. It was started with undue haste. I was addressing the Chair." [50]

Heyburn had clearly sought recognition before Aldrich responded on the roll call, and, as one historian has observed, "it must be said that the filibuster was overcome by doubtful practice" and "for the first time since the practice had risen to great prominence in the Senate, a majority ruthlessly confronted filibusterism with restraints." [51]

Notwithstanding the sharp practices that had been used, the 1908 rulings were important milestones on the long road toward curtailment of the reckless license of filibusterers.

Filibusters continued to erupt intermittently prior to the adoption of the cloture rule in 1917, which is the subject of another of my addresses, but reference to only one of these will be made here, that being the prolonged debate in 1915 over the Ship Purchase Bill. The legislation authorized the United States to purchase, construct, equip, and operate merchant vessels in the foreign trade. World War I had begun in July 1914 with the assassination of the Austrian crown prince, Archduke Francis Ferdinand and his wife, Sophie, on June 28, and had spread to the seas, with German torpedo boats and cruisers attacking shipping. German submarines roamed the oceans. There was a shortage of vessels and, as a result, high shipping charges. Supporters of the legislation argued that it would bring about a more rapid movement of goods and reduced shipping costs. Opponents lined up with the shipping interests and attacked the bill as being socialistic. The Republican minority in the Senate announced that they would strongly oppose the measure, and a lengthy filibuster stretched the debate out, day after day, for weeks. Discussions went on into the evenings, and, on Friday, January 29, an all-night session occurred. Beginning at 11 o'clock Friday morning, the Senate did not rest until 11:15 p.m., Saturday, a total of thirty-six hours and fifteen minutes. It was a night to remember, a night of parliamentary wrangling and confusion, with the Senate tying itself in knots on top of knots. There were points of order in layers, with appeals, from the Chair's rulings, motions to table, quorum calls, demands that senators be required to assign their reasons for not voting, warrants of arrest issued for absent senators, and votes on the motions. Senators disputed the Chair's rulings and challenged the power of recognition by the Chair without the right of appeal; there were questions of privilege, and the calling to order of senators by the Chair, and there were cries for the regular order. The scene was one of wild uproar and choas. Finally, Senator Reed Smoot of Utah gained recognition and the tumult subsided. Smoot opposed the bill, saying that he favored the building of an American merchant marine by the granting of subsidies. Of the pending bill, he called it "undemocratic, unrepublican, un-American, vicious in its provisions, and . . . dangerous and mischievous if it ever becomes law." Smoot's was one of the outstanding speeches in the history of filibusters. A *New York Times* story, dated January 30, stated that Smoot "settled down with evenly modulated voice to an address that lasted, without even the interruption of a rollcall, for 11 hours and 35 minutes."

During his speech, Senator Williams of Mississippi interrupted Smoot to ask if he had "calculated the amount of money that he is costing the American shippers by his speech?" Williams opined that it was costing "$20,800 an hour" and that "if it continues much longer, he [Smoot] will very nigh bankrupt them." [52]

The Democratic majority had decided upon a strategy of continuous session, but, as always, the hours became as long and wearing upon the majority as on the minority, with senators sleeping "on couches in chamber" and cat-napping "in cloakrooms." [53]

Finally, after thirty-six-and-a-quarter hours, thirteen roll calls, and five quorum calls, the Senate recessed over to Monday, February 1. The filibuster then continued, with no sign of concluding. The session of February 8 began at noon and ran until 6:10 p.m. on Wednesday, the 10th, a total of fifty-four hours and ten minutes, during which time there were thirteen roll-call votes and nine quorum calls, six of the votes pertaining to challenges of the Chair's rulings and four occurring on motions to adjourn or to recess.[54]

At one point during the six-weeks filibuster, the Democrats found themselves having to play the role of delaying the action on the bill when several of their members went over to the side of the Republican opposition, and it was only after absent Democrats heeded urgent calls to return to Washington from distant points around the country that the majority party was again in a position to press for a vote on the legislation. Referring to the dilemma that had temporarily confronted the Democrats, Senator James A. Reed of Missouri said:

Mr. President, a few evenings ago we listened to a speech here that lasted all night, delivered by the Senator from Utah [Mr. SMOOT]. The Republican side of this Chamber appeared to be well-nigh exhausted. It looked as though tired nature was to bring a surcease to our woes of waiting, when some Democrats entered into an arrangement with the Republican side of the Chamber whereby dilatory motions were to be offered to this bill and a combination effected between a small portion of the Democrats and nearly all of the Republicans; and then, having finally secured the attendance of Senators who have been brought here thousands of miles, who were absent for good and sufficient cause, we now witness the performance of last night, when, by a concerted action, nearly every Republican in this body went to his home, to his bed, with the understanding that the verbal stalwart who was then occupying the floor would hold it until a certain hour, when these gentleman might rise from their couches, put forward another individual capable of talking several hours, a physical logician, an athletic orator, who could stand the exertion of remaining upon his feet and employing his vocal chords, the proposition being that again they would come here in relays, all of this . . . to deny the people whom this body represents any opportunity to have their will as so represented crystallized into law.[55]

In an effort to force the constant attendance of senators and thus avoid the loss of quorums, Senator Reed proposed the following standing order of the Senate, effective until otherwise ordered:

All Senators are required to appear forthwith in the Senate Chamber and to remain in the Chamber until excused by the Senate. Any Senator disobeying this order shall be in contempt of the Senate and shall be brought to the bar of the Senate and dealt with as the Senate may order.[56]

Commenting on the state of affairs then prevailing under filibuster conditions in the Senate, Senator Reed observed:

We have witnessed now for weeks not an attempt to do business, but an attempt to prevent the doing of business; not a purpose to come to a vote, but a deliberate conspiracy to prevent a vote. Senators have been arranged in relays, a part of them to retire to their downy couches of ease and to the embracing arms of sweet slumber, while one or two able-bodied and lung-experienced aerial athleles continue to pour forth a ceaseless flow of eloquence, which invariably would be characterized outside of this Chamber by language which is not here parliamentary, and therefore may not be employed . . . it might be said that in the attempt to defeat this remedial legislation gentlemen were willing to obstruct the very machinery created by the law for the enactment of legislation for the expression of the will of the people.[57]

Senator John Sharp Williams of Mississippi gave notice of his intention to move to amend Rule XXII of the standing rules as follows:

Any Senator arising in his place and asserting that in his opinion an attempt is being made on the floor of the Senate to obstruct, hinder, or delay the right of the Senate to proceed to a vote, the Chair shall, without permitting any debate thereon, put the question to the Senate, "Is it the sense of the Senate that an attempt is being made to obstruct, hinder, or delay a vote?" And if that question shall be decided in the affirmative, then it shall be in order, to the exclusion of the consideration of all other questions, for any Senator to move to fix a time for voting on the pending bill or resolution and all amendments thereto, and the said motion shall be decided without debate: *Provided, however,* That the time fixed in said motion for taking the vote . . . shall be at least two calendar days after the day on which said motion is made.[58]

Needless to observe, neither Senator Reed's proposed order to force the constant attendance of senators nor Senator Williams' proposed cloture rule was ever approved, and the filibuster was eventually successful after having raged for thirty-three calendar days. On February 18, the majority surrendered, and the matter was shelved. A sizeable and determined minority's opposition having proved to be insurmountable on the battlefield of the Senate floor, the Ship Purchase Bill was dead.

The precedents established in earlier filibusters—particularly in 1879, 1897, and 1908—and those which would come in the future would be as important as the 1917 cloture rule itself in guiding the Senate through future stormy seas of filibusterism.

FOOTNOTES TO THE SENATE FILIBUSTER—1789-1917

1. Congressional Quarterly's, "Guide to Congress," Third edition, p. 92; Robert Luce, *Legislative Procedure* (Houghton Mifflin Co., Boston—New York 1922), p. 283.
2. John Langhorne, D.D., and William Langhorne, A.M., *Plutarch's Lives* (Harper and Brothers, New York, 1855), p. 499.
3. Georg Jellinek, "Parliamentary Obstruction," Political Science Quarterly, December, 1904, Vol. XIX, p. 580.
4. Lindsay Rogers, *The American Senate* (Alfred A. Knopf, Inc., 1926), p. 123.
5. Jellinek, p. 581.
6. *Works of Fisher Ames,* Seth Ames, ed., (Little, Brown and Co., Boston, 1854), Vol. 1, p. 71.
7. Kenneth R. Bowling and Helen E. Veit, eds., (*The Diary of William Maclay and other Notes on Senate Debates* (Johns Hopkins University Press, Baltimore and London, 1988), p. 157.
8. Ibid., pp. 162, 163.
9. *Annals of Congress,* 11th Congress, 3d sess., Vol. 22, p. 1092.
10. Franklin L. Burdette, *Filibustering in the Senate* (Princeton University Press, Princeton, New Jersey, 1940), p. 17.
11. *Niles' Weekly Register* (Baltimore, 1826), Vol. XXX, or Vol. VI, third series, pp. 452-53, 455-56.
12. Burdette, p. 21.
13. *Congressional Globe,* Twenty-sixth Congress, 2d sess., special session, pp. 242-43, 247-48.
14. Burdette, pp. 22-24.
15. Ibid., p. 25.
16. Ibid., pp. 25-7.
17. Ibid., pp. 27-8; Robert C. Byrd, *The Senate, 1789-1989* (Senate Document 100-20, GPO, Washington, 1988), Vol. 1, pp. 187-88, 197-98.
18. *The Congressional Globe,* Thirty-seventh Congress, 3d sess., p. 518.
19. Ibid., p. 549.
20. Ibid., p. 550.
21. Ibid., pp. 552-53.
22. Ibid., pp. 558-59.
23. Ibid., p. 584
24. *Congressional Globe,* 37th Cong., 3d sess., pp. 1436-37.
25. Ibid., p. 1477.
26. Ibid., p. 1490.
27. Ibid., p. 1494.
28. Burdette, p. 34.
29. *Congressional Record,* 46th Cong., 1st sess., pp. 2123-55.
30. Ibid., pp. 2172-2175.
31. Burdette, p. 39.
32. Byrd, pp. 323-26.
33. *Congressional Record,* 51st Congress, 2d sess., p. 819.
34. Ibid., p. 1443.
35. Ibid., pp. 1440-42.
36. Ibid., p. 1565.
37. Ibid., p. 1740.
38. Burdette, p. 59.
39. Ibid., p. 68.
40. *Congressional Record,* 54th Cong., 2d sess., pp. 2736-37.
41. Ibid., pp. 2754-2930.
42. Burdette, pp. 69-72.
43. Ibid., p. 72.
44. *Congressional Record,* Fifty-seventh Cong., 2d sess., pp. 3058-59.
45. Burdette, pp. 78-79.
46. Ibid., p. 84.
47. *Congressional Record,* Sixtieth Cong., 1st sess., pp. 7161-7201, 7220-26.
48. Ibid., pp. 7195-96.
49. Ibid., pp. 7158-59.
50. Ibid., p. 7259.
51. Burdette, pp. 90-1.
52. *Congressional Record,* 63rd Cong., 3rd sess., p. 2600.
53. *New York Times,* January 30, 1915.
54. *Congressional Record,* 63rd Cong., 3rd sess., pp. 3229-3412.
55. Ibid., p. 3321.
56. Ibid., p. 3314.
57. Ibid., p. 3321.
58. Ibid., p. 3339-40.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I express my particular appreciation to the gracious and accommodating President pro tempore. As it happens, I rise briefly to call attention to work which he set in order a little more than year ago, the subject of which we find ourselves once more caught up with on the Senate floor; that is to say, the problems of the finances of the Federal Government.

In 1988, the Congress established the National Economic Commission, the purposes of which was to inquire into the issue of the Federal budget deficit and its implications for the Nation. We had hoped for a bipartisan result, and, to a degree that might surprise persons, we got one. The then majority leader, now our President pro tempore, the incomparable chronicler of our institution and leader of it for so many years, Senator BYRD, appointed Mr. Lee Iacocca, Mr. Lane Kirkland, and the Senator from New York to be his representatives on the Commission.

Mr. President, the report of the Democratic Commissioners said something very simple. I would like, if I can, to take just a few minutes to summarize it. It begins:

Hamilton called it "political arithmetic," and that about sums it up.

This was the subject of his first Report on the Public Credit, sent to the House of Representatives on January 14, 1790, just eight and one-half months after Washington took the oath of office, and the great Republic commenced a beleaguered, problematic existence.

In this report Hamilton set forth first principles. "The political arithmetic of the new nation must balance. We must pay our debts, meet our expenses, establish our credit."

"Memory has faded of the absolute centrality of this issue."

The Constitution had come about because of the embarrassments that attended a nominal nation that could not pay its debt. Its debt had not been honored, and credit had collapsed. When the new Constitution came into effect, enlightened friends of good government rejoiced in the new integrity of our finances.

Let me quote one paragraph:

To justify and preserve their confidence; to promote the increasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources both to agriculture and commerce; to cement more closely the union of the states; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy. These are the great and invaluable ends to be secured, by a proper and adequate provision . . . for the support of public credit.

He then went ahead to say that the debt incurred by the States in the Revolutionary War had to be paid in full, on time, with interest. He said the intense interest of the European nations in seeing whether we would do this was understandable and that the fact that we were in debt was equally understandable. He made a nice point, and I quote him, about the nature of the debt of the United States at that time: "It was," he wrote, "the price of liberty."

Mr. President, over the years, as the Commission reported, the United States has recurrently gone into debt in times of national crisis—the most difficult was the Civil War—and thereafter has gone into surplus to pay back that debt. The 1980's changed this in the most dramatic way. During 8 years of the previous administration

we incurred a debt, in a time of peace and general economic ease, almost equal to the debt incurred in the Second World War.

Now we have the aftermath. We have interest beginning to eat up our resources. It now requires the income tax of every person, man and woman, west of the Mississippi River, to pay the interest on the debt. That is a transfer of wealth from labor to capital of a kind we have never seen. Labor, income tax on what you earn; interest, what you get from what you hold and own.

Mr. President, it has paralyzed this body. We are here in the middle of reconciliation, and only the distinguished President pro tempore is on the floor. We are paralyzed. We are incapable of attending to the Nation's business. We are using the Social Security trust funds to pay for the current expenses of Government.

An elemental trust, a payroll tax, is financing this Government. It took us 30 years to amend the Constitution to provide for a graduated income tax. We have already repealed that amendment in our practices of the past 4 years.

I only wish to say that what Senator BYRD did, in appointing that Commission, was not wrong. It may be that some reader of the CONGRESSIONAL RECORD on this point would like to read the summary of the Commission's report of the Members of the Democratic side, which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PART I—THE RISKS OF WISHFUL THINKING

The National Economic Commission was created to find a bipartisan solution to an issue that had become increasingly divisive: the federal budget deficit and its implications for the longer-term economic health of this nation. The hope was that the Commission would develop recommendations on questions that had eluded the executive and legislative branches over recent years. The failure of the Commission to do so on a bipartisan basis is a disappointment to the Democratic appointees to the Commission.

Despite public accounts to the contrary, the Commission was not sharply divided on the basic issues. The majority of Commissioners share the same concerns about the future economic strength of this nation and most agree on the need for substantial deficit reduction. With few exceptions, the members of the Commission believe that our national savings rate is too low and that the long-term prospect for strong economic growth is threatened.

The ability of the Commission to fulfill its mandate, however, diminished as the Presidential campaign progressed. The Commission believed it was esssential to keep its deliberations low key and out of the Presidential campaign. Unfortunately, the campaign produced no real discussion by either candidate of budgetary problems and the effects of continued deficits. The President has stated a clear and strong commitment to the "Flexible Freeze" fiscal policy on which he campaigned. The Commission received clear signals that the new administration would not consider significant deviations from the "Flexible Freeze" concept. When applied to the Commisson's work, it readily became apparent that these constraints left no serious basis for discussion of any other budgetary approach, or any bipartisan recommendations.

We respect the Republican appointees' understandable desire to support the new President and his budget proposals. However, in our view, the administration's budget does not fulfill the mandate of this Commission and is not a plan that we can support. We reject the administration's approach because it leads nowhere. It combines a temporary fix for a long-term problem with economic projections that make the problem invisible for the time being.

Our first instinct when it became clear that a bipartisan consensus could not be reached was to prepare a detailed "Democratic" plan. However, on reflection, we believe that offering a minority plan is not what we were appointed to do, does not reflect the bipartisan intent of the Congress when it established the Commission, and is not our proper role. Our role, as set forth in the legislation establishing the Commission, was to provide a bipartisan plan to assist the executive and legislative branches bridge their differences, not contribute to more division with yet another partisan approach, as we believe has now occurred.

We are confident, however, that the Commission's efforts may be useful and may contribute to the ability of the President and Congress to deal with the budget problem. The Commission served as a forum for public debate on this issue at a time when the Presidential campaign in 1988 failed, on the whole, to address it seriously. The Commission and its staff have distilled much of the public comment about the deficit, from leading economists and policy experts and from concerned citizens, into a volume of background papers that will serve as a source for further discussion on the budget between the Congress and the President. And, most importantly, most Commissioners agreed on several important elements of the budget problem. Consensus on these points should energize the Congress and the President as they tackle the budget in the coming months.

We would like to make two basic points with which we believe many of our Republican colleagues agree:

First, that deficits do matter. Coming to grips with our policy of spending more money than we take in must be this nation's first priority. Rationalizations of the policy debacle that has led to the immense deficits are an irresponsible answer to a serious problem. Republicans and Democrats must work together to address the problem in a realistic way. We have heard from many prominent economic and financial leaders, including the past and current Chairmen of the Federal Reserve Board. The consensus view is that specific and credible deficit reduction measures are needed on the order of $30 billion to $40 billion per year for the next three to four years. We accept and support this consensus.

Second, that budget process reform is an important element of any deficit reduction effort. It should include movement towards biennial budgeting, clearer enforcement of budget goals, and other bipartisan proposals.

That said, we have four fundamental concerns about the administration's approach to deficit reduction.

First, we believe that the economic assumptions underlying the President's budget are overly optimistic, particularly over the five year period. We have learned through experience that when faulty assumptions fail to materialize, the anticipated real increases in national savings required for capital accumulation and economic growth are gone too.

Second, the President's approach to deficit reduction is inherently unbalanced and cannot be sustained over the long term. The proposals contained in the administration's budget have been severely criticized for their lack of detail and specificity, particularly those for domestic spending programs. However, even without a detailed list of budget reductions, the broad outlines of fiscal policy are clear: continued sharp reductions in domestic spending. Their approach rules out any discussion of additional revenues and relies heavily on harsh and disproportionate reductions in domestic spending, many of which have been rejected repeatedly by the Congress and the American people.

The President's "Fexible Freeze" for 1990 calls for $21 billion in spending reductions for domestic programs. Defense, in contrast, is fully adjusted for inflation so that on a comparable basis it is untouched. Beneficiaries of entitlement programs such as medicare and civil service retirement would lose ground under the administration's proposals. For example, medical benefits would be reduced $5 billion below the amount under current law and civil service and military retirement benefits would be cut about $3 billion. Many of these elderly beneficiaries have made pension, savings, and retirement decisions based on the assumption that they will continue to receive the benefits now guaranteed in law. Budget reduction strategies that constrain growth below currently projected levels would result in financial difficulties for some recipients particularly if they were applied for an extended period of time. It is very unlikely that a majority of the Democratic or Republican members of the Congress will vote for such disproportionate cuts, especially in light of the budget policies of the last four years.

Third, the administration's budget is a one year plan designed to avoid the Gramm-Rudman-Hollings (G-R-H) sequester: it is not a viable long-term approach to deficit reduction. A proposal that relies on overly optimistic economic assumptions and severe domestic spending cuts may work for one year, but over the long term, is neither theoretically sound nor politically realistic. If it permits the Nation to muddle through this year, it does so with risk and makes the problem for ensuing years even more difficult.

Fourth, while the administration is to be commended for facing up to the long neglected savings and loan problem, its budget does not do so in a creditable way. It shows federally-guaranteed off-budget borrowing as a form of deficit reduction that offsets the true cost of the saving and loan bail-out program. As a result, the administration shows a decline in outlays for the program of $9.2 billion in 1990.

The savings and loan industry represents one of the most serious economic problems facing the nation. We should solve it in the most efficient and least costly manner we can. Such a solution precludes off-budget slight-of-hand, and we should recognize that

by showing it on the government's books correctly even if doing so requires a one-time exception to the Gramm-Rudman-Hollings deficit targets.

ECONOMIC ASSUMPTIONS

The NEC is charged with solving the deficit problem. Since it is a long-run problem it must be dealt with using a credible long-term budget plan that in turn must be based on a reasonable set of long-range economic assumptions that do not understate the problem. Optimism is no substitute for responsibility.

Economic forecasting is not an exact science, and errors have been made over the past several years on both sides of the equation. However, according to the Congressional Budget Office (CBO), the budget projection contained in the first congressional budget resolution for the fiscal years 1980-87 had an average error in the deficit of about $42 billion for the year ahead. Optimistic economic assumptions were responsible for about $23 billion of this error, adding amounts to the deficit ranging from a low of $1.4 billion in 1981 to a high of $76 billion in 1982.

Considering the track record on economic projections, it makes sense to choose a set of assumptions that are either mid-range or somewhat pessimistic. That is the prudent course to follow. It is not the choice made by the administration. The economic assumptions used for their budget are at best clearly at the optimistic end of the range of current forecasts for the near term and lose total credibility in the long term. The forecast prepared by the nonpartisan CBO, in contrast, matches quite closely the consensus of private forecasters.

If the Republican plan were based on CBO economic and technical assumptions the deficit targets would simply not be met. Table 1 shows that under current CBO assumptions, the administration's plan (excluding asset sales) misses the target by $22 billion in 1990. By 1993, the year of a balanced budget, the plan misses by $81 billion. If the social security trust fund surplus is excluded the shortfalls are $90 billion and $184 billion, respectively.

The "lost savings" from optimistic economic assumptions, which total $173 billion over the four year period, further delay our goal of a balanced unified budget by 1993.

TABLE 1.—ADMINISTRATION BUDGET DEFICITS

[Fiscal years, in billions of dollars]

	1990	1991	1992	1993
Administration estimates (excluding asset sales)	−95	−64	−31	2
Revised estimates (based on CBO assumptions) [1]	−122	−105	−62	−81
G-R-H deficit targets	−100	−64	−28	0
Revised deficit excluding social security surplus and asset sales [1]	−190	−184	−183	−184

[1] NEC staff estimates using CBO economic and technical reestimates of President Reagan's 1990 budget. CBO's official reestimate of President Bush's budget is not yet available and could differ by small amounts.

UNSUSTAINABLE DOMESTIC REDUCTIONS

The administration has made a major point of the fact that if the economy maintains its strong upward growth trend budget receipts will naturally increase by $82 billion in 1990. This, they claim, is enough to reduce the deficit by the $63 billion necessary to meet the G-R-H deficit target with $19 billion left for program "increases". However, the natural growth of $82 billion includes an increase of almost $30 billion in social security contributions and other earmarked taxes.

This argument would make sense if the economy that produced the $82 billion were not changing in other ways. First, about $50 billion of that is the result of inflation—that part of economic growth represented by price changes, not real new economic activity. This same inflation affects federal buying power and the value of federal payments for entitlement programs such as social security and programs for the poor. Furthermore, like it or not, the population of the U.S. is aging, so costs for social security and medicare go up whether or not there is inflation. And, because of past deficits, interest costs continue to rise. In fact, social security, interest, and programs for the poor, all of which are programs even the administration admits should not be cut, use up $6 billion more than the $19 billion available. Other legal commitments—including medicare—require an additional $18 billion. That leaves the rest of the budget without any adjustment for inflation or funds for new initiatives.

As impractical as this is for the next year's budget, it is devastating for the longer range. Absorbing inflation for five years in a row requires programs cuts of at least 14 percent in discretionary programs and even more if the inflation level moves above the optimistic projections of the administration. Transportation, education, environmental and law enforcment activities are a few examples of programs that would be scaled back under such a proposal. Federal domestic discretionary spending has already borne the brunt of budgetary restraint in the 1980s, declining from almost 6 percent of gross national product (GNP) at the start of the decade to less than 4 percent at present. Under this plan, domestic discretionary spending would fall to about 3 percent of GNP by 1993. We see no evidence that the American people—nor, on a bipartisan basis, the Congress—are willing to support such a reduction. In fact, as the President has so effectively stated in his February 9 State of the Union message, the need for additional resources has accelerated in recent years, particularly in the areas of education, housing, environmental programs, drugs, space and science, research and development, day care, child adoption, and health care—in order to produce a kinder and gentler America.

Apparently the administration thinks nobody notices what is going on in our country. But they do. Asking the American people to accept the logic of the administration's budget is like expecting a family to deal with inflation and support a newly retired parent without any increase in wages. It may be possible, but surely no one would expect that it would go by unnoticed or that it could be done without some sacrifice by members of the family.

THE NEED FOR VISION

Over the next decade we face both opportunities and risks. We have the opportunity to use this period of economic growth and stability to move toward a budgetary surplus, increase our national savings rate, channel these savings into productive investment, and guarantee a rising standard-of-living for future generations. We face the risks of continued large budget deficits and huge trade deficits that perpetuate our extremely low saving rate and threaten the Nation's long-term prospect for strong economic growth.

We need to provide for an adequate defense and to invest in our domestic economy, but we also have responsibility to pay the bills. In 1981 the nation made what the Republican Senate Majority Leader at the time called "a riverboat gamble." We lost. The "new economics" did not work out. Reduced tax rates did not bring about increased revenues. Still there was a theory, indeed a new and legitimate school of economic thought. If it was wrong-headed, it was not weak-minded. Today, however, on the basis neither of theory nor evidence, we are asked to believe that the deficits will go away on their own like some friendly monster in a Disney cartoon.

The people of this Nation can be trusted. Tell them the truth and make clear the alternatives—with the rewards and penalties for the country that each involves—and they will make responsible choices.

We are confident that the Congress and the American people will support the President in the kind of meaningful and realistic long-run deficit reduction program that will leave our children a legacy of fiscal responsibility and assure that the Nation maintains its position as the economic leader of the free world as we move towards the twenty-first century.

Mr. MOYNIHAN. I would record, Mr. President, the report was cordially received by the administration but no action of any kind was ever taken. The commissioners were never asked to report to the President. We were never asked to even report to his financial officers. The thought that this would go away was pernicious and devastating and indeed the title of our summation is called, the risks of wishful thinking.

I say once again the then majority leader, now President pro tempore, has taken us so beautifully through the history of this institution, and the Constitution begins in the context of a crisis of the credit of the United States, a crisis in what Hamilton, our first Secretary of the Treasury, called political arithmetic. Until we get that right, everything else will go wrong.

Mr. President, that is about what is happening in this Nation in consequence of the last decade.

I very much thank the distinguished—I dare not say venerable, it sounds like it might refer to too ancient a circumstance, I say simply, honored beyond the equal of any Member of this floor—the distinguished President pro tempore.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair, and I thank my friend from New York [Mr. MOYNIHAN] for the very able work and great amount of time that he and other Commission members put in on the occasion to which he addressed his remarks, into the formulation of the report, which was an excellent report. And, as he has stated, it is to be regretted that little, if any, use has been made of it since.

But, hopefully, it can still shed light, Mr. President, on the problem which has grown only worse since the time of the filing of the report.

Mr. STEVENS. Mr. President, will the distinguished President pro tempore yield.

Mr. BYRD. Yes, I will be happy to yield.

The PRESIDING OFFICER (Mr. FORD). The Senator from Alaska.

Mr. STEVENS. On behalf of those of us who may have amendments to offer, I would request, if it is possible, that we might recess rather than charging this time against the bill with the understanding we would yield back the time if it is not later needed. I understand there is a very great possibility now that there is an agreement coming forth from the majority-minority leaders' office that the Senate will support and there will be no necessity for time to offer amendments. But if that does not materialize, for some reason it is frustrated, it is my understanding now there is about 7½ hours remaining on the bill. Am I correct?

The PRESIDING OFFICER. Approximately 7 hours remain.

Mr. STEVENS. I have great respect for the leadership and I do not wish to make such motion myself, but I do make the request that we consider recessing and not charging this time further against this bill to see if we can work it out without having the possibility that we would come back to the floor with very little time remaining and have a number of Senators who wish to have amendments considered if the projected compromise is not achieved.

Mr. BYRD. Mr. President, I am advised that the distinguished majority leader would like for the Senate to stand in recess but with the time equally charged against both sides. Is the distinguished Senator from Alaska amenable to such a request?

Mr. STEVENS. No, Mr. President, this Senator is not amenable to that. I regret that. If the time is continued to be charged, I would like to have the bill before the Senate and I would like to offer some amendments.

Mr. BYRD. I thank the distinguished Senator from Alaska.

Mr. President, I fully understand his desire to offer amendments and therefore in view of the fact that the majority leader does wish to have a recess not charged, I have no alternative but to suggest the absence of a quorum.

Mr. STEVENS. Mr. President, I am entirely in agreement to let that be charged against both sides if the Senator would like to have that done. The time is roughly equal but I will get my material and come back.

Mr. BYRD. Yes. I ask unanimous consent that the time be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m., and that at 2 p.m. when the Senate resumes consideration of the reconciliation bill there be deemed to be 5½ hours remaining on that bill, that time to be equally divided to each side.

The PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I forgot to ask the majority leader, I do not want to delay anything. I wonder if he will add to that before we go on recess that I can have 2 minutes to explain my absence from the Senate yesterday?

Mr. MITCHELL. Certainly.

Mr. President, I ask unanimous consent that the Senator from New Mexico be recognized to address the Senate for such time as he may wish to use, and that upon the completion of his remarks the Senate stand in recess until 2 p.m. under the conditions previously stated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico, Senator DOMENICI, is recognized.

ABSENCE FROM THE SENATE SESSION

Mr. DOMENICI. Mr. President, actually I have a great deal of remorse about not being in the Senate yesterday because it was a sad day for my family, and my wife, Nancy Burk. Her father, 85-year-old William Lee Burk, died 3 days before. So I was in New Mexico, and I remained there to be with the family for his funeral.

I might, while I am addressing the Senate, say that I consider it a real privilege to have married into that family. This distinguished gentleman is sort of a self-made man, raised a beautiful family, worked hard all his life, and, as one of his grandchildren said yesterday, he was the epitome of a true American. He would have been thrilled, as one of them said at the funeral ceremony, to see people in the world looking for what America has.

So I do not normally miss Senate sessions, certainly not when it is debating budget issues.

I returned last night, and I will continue hopefully today to see if we cannot together resolve this very serious problem we have on the reconciliation bill.

I thank the Senate for giving me a few moments to discuss my absence.

RECESS

The PRESIDENT pro tempore. The Senator from New Mexico yields the floor.

Under the previous order, the Senate stands in recess until the hour of 2 o'clock this afternoon.

Thereupon, the Senate, at 12:14 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the PRESIDENT pro tempore.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I further ask unanimous consent that I speak out of order; that all time I consume be charged to this side of the aisle.

The PRESIDENT pro tempore. How much time does the Senator desire?

Mr. PRYOR. The Senator from Arkansas will speak no longer than 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE $2 MILLION PRESIDENTIAL REVOLVING DOOR

Mr. PRYOR. Mr. President, when Ronald Reagan left the White House 9 months ago, he became the immediate beneficiary of a Federal largesse bestowed upon former Presidents. Three decades ago, out of concern over the welfare of our former Chief Executives, Congress acted to avoid commercialization of the Office of the President of the United States. In recognition of their unique status as elder statesmen, a law was passed that provided Herbert Hoover, Harry Truman, and their successors a pension and an office allowance. Subsequent legislation gave the Nation's former Presidents funding for libraries to house the papers of their Presidency, free mailing privileges, and Secret Service protection. In many regards, such benefits can be viewed as an expression of gratitude on the part of the American people for their years serving this Nation in the capacity of President of the United States.

For several years now, a number of us in the Congress have been concerned that the somewhat beleaguered taxpayer is being asked to contribute too much to support former Presidents. Some moderate adjustments have been made to the law to alleviate those concerns. For example, starting with President Bush, the friends and associates of a former President who raise money to build a Presidential library will also have to establish an endowment to cover the heretofore tax-

payer-borne cost of maintaining such a facility. I have long thought that some additional modifications were in order. After reading the May 11 New York Times column by William Safire and an article in the Washington Post this past Saturday, I am convinced that reconsideration of the benefits we bestow on former Presidents is particularly well recommended.

These two articles, which I will ask unanimous consent to insert in the RECORD immediately following my statement, pertain to the trip former President Reagan will be taking to Japan in 2 weeks. The trip, which may have been arranged by former USIA Director Charles Wick while he and President Reagan were still in office, will net the former President $2 million for two 20 minute speeches. Another apparent beneficiary will be the Reagan Presidential library, which will reportedly receive a gift of $2 million from the Government of Japan, to be used as the former President sees fit. This, by the way, is the very same library that then President Reagan insisted be exempt from the law requiring a private maintenance endowment—thereby leaving the taxpayer to pay the estimated million-dollar annual operating cost for his library.

So, here we have a trip to Japan that will enrich former President Reagan and his library to the tune of $2 million each. And what will the taxpayers get out of Mr. Reagan's trip to Japan. They will get the tab for his Secret Service protection. And, I might add, I hope that protection is more than adequate to protect this fine gentleman. I cannot help wondering whether this is proper for the American taxpayer to foot the bill for this trip to Japan for the former President when he will be making two 20-minute speeches and receiving a speaker's fee of $2 million. We owe our former Presidents protection and respect, but do we owe them a guarantee to underwrite whatever future business ventures they may undertake for personal gain?

My staff was unable to learn the precise cost of the additional overseas protection because the Secret Service claimed such information was not readily available. However, I can tell you the tab for protecting our former Presidents has risen $3.8 million in the last year to a estimated total cost of $12.1 million in fiscal year 1990.

Should Ronald Reagan reimburse the American taxpayer or otherwise offset the expense for Secret Service protection while in Japan making $2 million? He is not required to do so. Moreover, given that he insisted his library be exempt from the endowment law and his failure to respond to my request that he voluntarily comply with this law, I doubt he will do so. But, the case is certainly worth considering. And the issue and the question remains.

Another world-traveling former President, Richard Nixon decided a few years ago to provide for his own security services. Perhaps there is an equitable middle ground between the Reagan and Nixon situations regarding public funding of protective services for former Presidents when they are traveling on profitmaking ventures. I plan to discuss this matter with the Secret Service in the near future. If some administrative accommodation cannot be reached on this matter, I will introduce legislation to make sure the taxpayer does not get stuck with the bill when our former Presidents are off actually increasing their personal fortunes.

Mr. President, I ask unanimous consent that an essay in the New York Times of May 11, 1989, and also an article written by Mr. Safire, also an article in the Washington Post of October 7, 1989, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 11, 1989]

RECRUITING REAGAN

(By William Safire)

The payoff scandal that toppled a Japanese Prime Minister is now reaching out to entangle a former U.S. President.

The hiring of Ronald Reagan by Japanese businessmen to serve as their glad-hander and front man for a festive week in Tokyo—within one year of his leaving office—strikes the nostrils with the force of week-old sushi.

We learn from Steven Weisman, Tokyo bureau chief of The New York Times, that before the Recruit scandal exposed the corruption between Japanese corporations and politicians, the Fujisankei Communications Group hired Ronald Reagan for two speeches and assorted ceremonies in October.

I am told the fee to Mr. Reagan will be 270,000,000 yen, or about $2 million; this one week's work is more than he earned during eight years in the White House.

The two jobs, however—as U.S. President and as master of ceremonies at the "Premium Imperiale of the Arts" in Japan—are not unconnected. President Reagan, in 1983, favored the founder of the Fujisankei conglomerate by agreeing to an exclusive interview in one of his newspapers, and in 1988 brought him into the Oval Office to discuss the possibility of the visit that turned out to be so lucrative.

Who was President Reagan's agent in this deal? None other than Charles Wick, his California crony who was head of the United States Information Agency. In October 1988, on one of his last overseas flings at taxpayer expense, Charlie listened to an offer in Tokyo from Hiroaki Shikanai, son of the executive who had already sounded out the President in the White House. In February of this year, Mr. Wick closed the deal on private citizen Reagan's behalf.

However, Fujisankei (a competitor of Recruit Company, and a hefty contributor to the Reagan Library) was not the only Japanese corporate bidder for the Reagan services. Shuwa Corporation, with extensive real estate holdings in major U.S. cities, reportedly offered $5 million. "I did not regard that as a serious offer," Mr. Wick told The Times. He insisted "there were no serious discussions or negotiations with anybody else."

Note the qualifying word *serious*. I suspect that was Mr. Wick admitting, artfully, that such discussions or negotiations did take place, but he chooses to characterize them as trivial, or not serious. If Mr. Wick seriously discussed such an offer while holding public office, he would be in deep trouble, as would Mr. Reagan.

Was this deal hastily changed after the exposure of corruption of officialdom by wealthy corporations like Recruit? Apparently so; former Prime Minister Nakasone and friends were supposed to be central in the Reagan visitation; now he is burdened with allegations and is out of the Reagan deal completely.

Did Charlie Wick get a commission on the deal he agented? (He's entitled to at least 27 million yen.) Not to my knowledge; however, Mr. Reagan or his friends are apparently leaning on President Bush to have his agent appointed U.S. Commissioner General of the 1992 Seville Exposition. This final favor would put Mr. Wick in charge of a quasi-commercial operation costing taxpayers $15 million.

What's wrong with all this? Certainly the breaking of the million-dollar barrier is joyful news for all of us who speak for fees; why can't a buddy arrange for his old boss to get a bundle?

First, the Attorney General here, as well as law officers in Japan, will want to see what sort of private negotiations may have been held while Mr. Reagan and his agent were in office. Then Congress will want to look into circumstances around the award of the Seville plum.

Let's assume Charlie was careful to put the Japanese on ice until he could lawfully close the deal. And let us grant our former leaders the right to make money in great fistfuls, especially in memoirs—it's a free country, and they are private citizens.

But there is such a thing as seemliness, decorum, respect for high office once held. In Japan, lining the pockets of officials was a way of fast-track corporate life; just as the Japanese are setting themselves right, no former American President should set them an example of how to use an artistic front to take down a few hundred million yen.

If this foreign revolving-door ripoff is right, then what would be wrong with a Return Address at Bitburg, for a million marks, or the dedication of the Gorbachev Glasnost Center for a million rubles? For a former President with a hot agent and no sense of sleaze, the profit opportunities are endless.

[From The Washington Post, Oct. 7, 1989]

MUTTERING IN TOKYO OVER REAGANS' TOUR—EX-PRESIDENT BEING PAID $2 MILLION BY MEDIA GIANT

(By Fred Hiatt)

TOKYO, October 6.—The chartered Boeing 747 has been refurbished with bedroom and shower for the trans-Pacific trip. Perry Como has been booked for an evening's entertainment. In the "R-Project" was room, busy staffers have equipped themselves with "The White House Cookbook" and videotapes of "Santa Fe Trail" and "Bedtime for Bonzo."

Ronald and Nancy Reagan are coming to town, and all of Tokyo—or at least the Fujisankei Communications Group, which is paying an estimated $7 million for their visit—is excited. Radio and television sta-

tions owned by Fujisankei are airing commercials about the Oct. 20-28 trip, and dozens of subway and train stations display posters of the former First Couple and the message, "This fall, the Reagans will come with smiles from America."

Not all is smiles in the planning of the extravaganza, however. Despite Fujisankei's generosity—Reagan will deliver two 20-minute speeches during his week here and receive approximately $2 million—Reagan's aides are miffed that the Japanese company is not doing more to help some American relatives of Japan-based soldiers who will be hitching a ride on the chartered jet, according to officials here.

And the Japanese government, a co-host of the Reagan visit, is miffed that Reagan won't hold a news conference and otherwise be more active during the official two-day state visit part of his tour.

"It seems almost that Reagan wants to take a rest during the government portion," one Japanese official said. "In theory, it's a joint invitation by the government and Fujisankei. But in financial terms, it's all Fujisankei, and the government cannot spend so luxuriously."

The government is, however, considering donating $2 million to the Reagan Presidential Library Foundation while Reagan is here.

Fujisankei is Japan's largest media company, with television and radio stations, a national newspaper and dozens of other properties, including a recently purchased 25 percent stake in Britain's Virgin Records. As part of its contract with the Reagans, Fuji's television network will conduct exclusive interviews with both Ronald and Nancy Reagan, as well as featuring a documentary on the former president's life and trip on the day Reagan leaves Japan.

Fujisankei officials said 10 billion yen ($7.1 million) is a very rough estimate of their costs for the trip, not counting the salaries of two dozen staffers working full-time on its preparation. But they said they are motivated by concern for U.S.-Japanese relations, not desire for corporate glory. Group chairman Nobutaka Shikanai is of Reagan's age and conservative bent and reportedly views the former president as a true hero of U.S.-Japanese relations and a friend of Japan.

"The U.S.-Japan relationship is becoming more and more emotional," said Takehiro Kiyohara, an organizer of the "R-Project" at Fujisankei. "It means a lot that the Great Communicator would come . . . and talk directly to the Japanese people."

To further that purpose, the media company is sparing no expense. The Reagans will travel with a retinue of about 20, not including Secret Service agents, according to U.S. officials. Charles Z. Wick, a Reagan friend and former U.S. Information Agency director who helped negotiate the contract with Fujisankei, is scheduled to come with his wife, as are Nancy Reagan's hairdresser, Julius Bengtsson, and Reagan's chief of staff, Frederick J. Ryan, and his wife.

Fujisankei agreed to rent a TWA 747 for the group so that the Reagans could make the trip nonstop and in comfort, officials said. Once they arrive in Tokyo, the couple will be flown by helicopter to Fujisankei's open-air sculpture museum near Mount Fuji.

There, the Reagans will spend their first weekend resting in an official guest house that is being refurbished for them. The redecoration, which cost more than $140,000, includes an elevator, new wallpaper and an extra-large bathtub into which hot-spring water will be piped.

The rest of Reagan's official schedule consists of appearances at several meals, concerts and award ceremonies. "We heard he's not very much interested in tourism or sightseeing," a Fujisankei official said.

During the two days of his state visit, the Reagans will lunch with the emperor and empress, and will attend a large dinner given by Prime Minister Toshiki Kaifu, a lunch cohosted by former prime ministers Yasuhiro Nakasone and Noboru Takeshita and a dinner given by U.S. Ambassador Michael Armacost.

Japanese officials, who warmly remember Reagan's free-trade rhetoric and friendship for Japan, also wanted the former president to hold a news conference and perhaps meet the public in other ways. But Reagan aides said no.

Returned to the embrace of Fujisankei, Reagan will give two speeches, one on politics and one on economics, at luncheons arranged by welcoming committees composed of luminaries of Japanese business and society, including Sony Corp. chairman Akio Morita and fashion designer Hanae Mori.

He will attend a Friendship Concert featuring Perry Como, Placido Domingo, the Harlem Boys Choir and several Japanese stars at a new 17,000-seat arena. The most expensive tickets cost more than $100 (Domingo is charging $680 for tickets to separate dinner-concert here) and proceeds will be donated to the Reagan library.

Finally, Reagan will give brief congratulatory remarks at the first annual Praemium Imperiale award ceremony, which Fujisankei has underwritten. The prizes, for lifetime excellence in the arts, carry a cash award of $100,000, and Fujisankei hopes they will eventually carry the prestige of a Nobel.

One reason Fujisankei is relucant to reveal the exact fee it will pay Reagan, in fact, is that it is paying less to several other world leaders who helped judge the prizes, including former prime ministers Edward Heath of Britain and Amintore Fanfani of Italy, both of whom also are to attend the ceremony.

Sources here and in the United States confirmed that Reagan will receive about $2 million for the trip. But Japanese sources said that some of the funds will go to the Reagan library and not to Reagan personally.

Reagan spokesman Mark Weinberg said that money was "no motivation" in the Reagans' decision to come to Japan. "They have a very high regard for the people of Japan and very warm memories of their previous visits here," Weinberg said.

Meanwhile, the Reagan team finds itself in a small tiff about the 200 family members who have been invited to fly along and visit U.S. service members stationed here. The Reagans will arrive in Tokyo and leave from Osaka, but TWA cannot carry the dependents on what would essentially be a domestic flight between the two cities.

Japan's Transport Ministry has not been eager to waive its rules, and Fujisankei, perhaps feeling it has anted up enough, said the family members are not its problem.

Mr. PRYOR. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that the time expended in this quorum be charged equally against both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

SOCIAL SECURITY TRUST FUND

Mr. HEINZ. Mr. President, in a moment I am going to send an amendment to the desk and ask that it be printed in the RECORD. I do not choose to offer it at this time, but I want it to appear in the RECORD so that people can see specifically the issue that I am going to refer to.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill, add the following:

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1986, $171,900,000,000;

"(B) with respect to fiscal year 1987, $144,000,000,000;

"(C) with respect to fiscal year 1988, $144,000,000,000;

"(D) with respect to fiscal year 1989, $136,000,000,000;

"(E) with respect to fiscal year 1990, $165,000,000,000;

"(F) with respect to fiscal year 1991, $139,000,000,000;

"(G) with respect to fiscal year 1992, $114,000,000,000;

"(H) with respect to fiscal year 1993, $99,000,000,000;

"(I) with respect to fiscal year 1994, $75,000,000,000;

"(J) with respect to fiscal year 1995, $50,000,000,000;

"(K) with respect to fiscal year 1996, $25,000,000,000;

"(L) with respect to fiscal year 1997, $0.".

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1996"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1997".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1997".

SEC. 5. POINT OF ORDER.

Title IV of the Congressional Budget of 1974 is amended by adding at the end thereof the following:

"PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS

"SEC. 408. (a) POINT OF ORDER.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any bill or resolution that contains a provision—

"(1) including the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act in any calculation of the deficit for the United States Government; or

"(2) modifying current law with respect to authorized uses of the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act (except for the use of such reserves for the payment of cost of living increases for recipients).

"(b) WAIVER OR SUSPENSION.—A point of order under this section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

SEC. 6. TREATMENT OF INTEREST PAYMENTS FROM THE GENERAL FUND.

Section 201(f) of the Social Security Act is amended by inserting "and shall be treated as outlays from the General Fund of the Treasury" before the period.

Mr. HEINZ. Mr. President, I am not going to offer this amendment to the reconciliation bill which is before us, for the simple reason that I anticipate that the Senate will agree sometime later this afternoon to substantially strip virtually all, if not all, of the so-called extraneous provisions from the reconciliation bill now on the floor.

If we had not agreed to this procedure, I might well be offering this as an amendment to the reconciliation bill, because it deals with the very fundamental issue that reconciliation is supposed to deal with; namely, reducing the Federal budget deficit. And unless we do a better job of reducing that deficit than we now do, we will see subsequent Senates and Congresses reaching well into the year 2000, I fear, going through exercise after exercise, bringing reconciliation bills to the floor that do not reconcile very much, and which have the effect of pretending to reduce the budget deficit when they do very little, or even the opposite.

Yesterday, Mr. President, I came here to the Senate floor to introduce legislation, the Social Security Truth in Budgeting Act. I described that legislation rather briefly then, and the bill that I introduced yesterday, as I say, is the sum and substance of this legislation.

I come back to the floor today because I think this issue is still relevant, even if we are not going to adopt any amendments other than a motion to strip this bill, because this issue is one we must deal with this month or, at least if not this month, in the context of any debt ceiling legislation that is going to come before the Senate. It is this Senator's view that unless this Senate acts to take the Social Security trust fund off budget and adjust the Gramm-Rudman-Hollings procedure, as required, to take account of that, there is no way that a debt ceiling bill can possibly, even remotely, stand a chance of passing in this body.

Many of my colleagues to whom I have talked feel very strongly about this issue and who I believe would subscribe to that very comment, which I think speaks for itself.

What I also noted on the wire earlier today is that a number of our colleagues, most of the Members of the Democratic leadership, including the Speaker of the House, held a press conference to talk about honest budgeting and the Social Security trust fund—very much the same subject that I addressed here on the floor yesterday.

I gather that the substance of the press conference this morning was to endorse legislation to take the trust fund out of the deficit game, and I salute that. I think that resolve speaks to my belief that the truth is not a partisan issue, and as elected officials all of us have a collective responsibility to tell the American people the truth, the whole truth, nothing but the truth, irrespective of party, and that includes the truth about the state of the national deficit.

So, Mr. President, I think our House and Senate colleagues hit the nail on the head this morning: The Congress cannot continue to operate a Federal budget out of the payroll taxes of workers which are supposed to be dedicated to their retirement someday.

We cannot claim a victory over debt by continuing to sweep spending excesses under a rug of trust fund surpluses. Democrat or Republican, we must not place the financial security of millions of retirees on the chopping block of our own deceptive accounting books.

The amendment that I asked to be printed in the RECORD at the beginning of these remarks makes it perfectly clear that using surplus funds from the Social Security Program to reduce the deficit is not just a bad budget policy, it is a dishonest budget policy, and worse, it is bad for America.

There are three very brief reasons why I think we should all feel a sense of urgency about this.

First, the game of deficit deception, if continued, is going to make us look like fools. We will get to 1993 when the deficit is supposed to be zero, and assuming we continue to meet the Gramm-Rudman-Hollings targets—it would be a first if we did in actuality, but let us pretend for the moment that we actually do—we will find that it is not zero, but actually $100 billion and growing. We will have a deficit because we are spending money that is pledged to the Social Security trust fund. The trust fund will be charging us interest, and we will have a very tough time explaining how on one day we were dressed in our fine balance-the-budget clothes, and the very next day we are stripped naked, having to admit we have at least a $100 billion problem.

Mr. President, the Senate and the Congress should not put themselves in that position. We need to act now. We need to act this year. We need to act this month.

The second reason we need to act is that we have an obligation to the people who both pay in and who take out of the Social Security trust funds. We obviously have an obligation to present retirees, but the people who pay in today are the retirees of tomorrow, and if we continue to spend the Social Security revenues in excess of expenditures, we are going to find that we do not have the money to pay today's workers in retirement because we have already borrowed and spent the money.

Let me give you a number that ought to shock everyone in this Chamber. As we know, the bulk of the baby-boom generation, those people roughly age 35 to 43, are going to be reaching retirement age around the year 2020. According to the intermediate U.S. projections from the 1989 Social Security Board of Trustees report, the balance in the old age and survivors

disability income [OASDI] trust fund will be $9.6 trillion in current dollars.

If we continue our current policy of borrowing that money and spending it, the general fund of the Treasury is going to owe that $9.6 trillion back to the Social Security trust fund.

Mr. President, where are we going to get that money? We think that $200 billion is a pretty big problem around here. As a matter of fact, we have real problems reducing the size of the deficit by $25 billion or $30 billion. So where are we going to get $9.6 trillion as that debt comes due?

There are only three places we could go to get it. We either slash Social Security benefits down to almost nothing, or hike taxes up through the roof, or we borrow on a scale literally unimagined and I think unimaginable.

The National Economic Commission in it's spring report did not agree on much. But it did agree that we should stop the current practice of borrowing and spending the Social Security surpluses each year. Commission members understood that having saved the Social Security goose 5 years ago, it is the most irresponsible of policies to melt down that golden trust fund egg today.

The third reason why this legislation is appropriate to any discussion of deficit reduction is what I call the issue of interest. Mr. President, the Gramm-Rudman-Hollings procedure that drives reconciliation is a commitment to reduce Government borrowing and simultaneously reduced interest paid on Government debt.

Our current use of Social Security reserves simply replaces one form of borrowing with another. Thus instead of reducing the interest burden on the Government, we are adding to it.

Let me give you a number or two. In 1989, the interest on the national debt was 169 billion, 8 percent of which went to pay interest on our clandestine borrowing from the trust fund. If we continue to spend the Social Security surplus to mask the Federal deficit by the year 2000, over 41 percent of the total interest owed by the Federal Government on our national debt will go directly to cover trust fund borrowing money we use to run general Government, will be required to cover the interest due.

I know a lot of our colleagues may say, "Well, I am not going to be here in this Chamber in the year 2000; why should I worry, why should I care?"

Well, Mr. President, we have had plans for the last 8 years to reduce the deficit, and here we are with a huge one, the reason for this reconciliation bill.

What I can tell you is that the amount of interest we now pay out is crippling our ability to meet the responsibilities of general Government today, and when it begins to eat further into the dollar, as it will within the decade, there will be even less to invest to meet the responsibilities of general Government.

And what are those responsibilities? They are the investments we make each year in such vital priority areas as education, training, health care, the war on drugs that we just undertook, the readiness of our Armed Forces.

Mr. President, what happens to a dollar committed to interest payments? If it is going to the public, it is going to some big financial institution or wealthy investor. If it is going into the Social Security trust fund, it is going in to make up the actuarial surplus that we need.

But I can tell you this, irrespective of where it goes, it is a dollar that is never going to help educate a single child, or train a dislocated worker, or help find a cure for AIDS or cancer.

I think it is critical to note that the Social Security Truth in Budgeting Act, the amendment and the bill that I have been talking about, requires that interest paid to the Social Security trust fund be shown in our Federal budget in the same fashion as other interest, and when we do that, I think we are going to be in for a big surprise.

Mr. President, there are some people who will say, "Well, look, we have had a unified budget ever since roughly 1968 when Lyndon Johnson put the Social Security trust funds on budget, which had the effect of making the Vietnam war look a lot less costly." They will say, "You do not need to do this. It is not going to make any difference. We have been doing this for 20 years."

To someone who says that, I would say two things. First, look at where we are today. It is not a very pretty picture. We are going to be on the threshold of having to pass a permanent extension of the debt ceiling bill at a level in excess of $3 trillion, $2 trillion of that added in the last 9 years.

But, by the same token, let us look at the benefits of what I propose. The extraordinary benefit is that we would be able, by no later than the year 2007, to literally buy in all the publicly held national debt; whether it is held in Omaha or Osaka, we will be able to buy it all in. That is to say that $3 trillion that is out there today will be retired. We will have done something that we all talk about, which is to get rid of that burden on our children.

How is it going to affect us? I assume we will be if not in the Senate, at least active in our communities. What is going to happen, Mr. President, is that the Treasury will be playing a smaller and smaller role, starting at once, in going into the marketplace as they do every week to add to and to refinance the existing national debt and, by about 17 years from now, the Treasury would literally be not competing at all with the private sector in borrowing increasing amounts both at home and abroad.

In other words, the financial operation of the Federal Government would no longer be driving up interest rates and with interest rates, the cost for borrowing on a house, an automobile, starting or expanding a business. You do not have to be an economist to know that when interest rates drop dramatically, the cost of capital, the cost of borrowing, drops dramatically, and instead of being locked in, therefore, to refinancing an ever-increasing burden of Government debt, we would create a vast pool of savings, a trillion dollars literally, and those moneys would be free for investment in job creation and industry. And this is a tenet with which virtually every economist I have talked to, and those who have written articles on this subject, agrees. The United States under these circumstances would be able to enjoy a literally unparalleled period of prosperity.

Mr. President, this is not the first time I have taken the floor to discuss this legislation. I was pleased that, on May 3 of this year, the Senate passed a resolution which I introduced—it was cosponsored by the senior Senator from New York, Senator MOYNIHAN, and by Senator HATCH, from Utah—the sense of which was that it was time for us this year to restore truth and accuracy to the budget process by removing the Social Security trust funds from our budget calculations.

I offered, in support of that resolution at that time, the findings of the National Economic Commission. As I said, the National Economic Commission disagreed on almost everything, but the one thing they agreed upon is that the Social Security trust fund should be removed from the annual Gramm-Rudman-Hollings deficit reduction game.

So the amendment that I have offered today will remove the Social Security trust fund from the Gramm-Rudman-Hollings calculation immediately. It will halt the use of the OASDI trust fund from being used to disguise the size of our national debt.

How does it do it? Mr. President, I have no particular pride of authorship, and I have talked to many of our colleagues on this subject. I have talked on our side of the aisle to Senators GRAMM and RUDMAN and to Senator DOMENICI; and on the other side of the aisle to Senators MOYNIHAN and HOLLINGS. Although I have had my own ideas, and these track fairly closely with legislation I introduced last year, nonetheless, I think it is fair to say what I am about to describe represents a consensus as to what the Senate ought to do. I think that consensus is reflected in the legislation that I sent to the desk by doing the following four things.

First, after taking the OASDI trust fund off budget, the first thing we do is to adjust the current Gramm-Rudman-Hollings targets upward by an amount exactly equal to the Congressional Budget Office's estimates of the OASDI surpluses for fiscal years 1991, 1992, and 1993. What that means is that there would be no additional fiscal impact on us in those fiscal years through 1993. In other words, although we are changing the Gramm-Rudman-Hollings target, we here in Congress will not have to cut any additional spending or raise any additional revenues than we would otherwise have to.

The second element is that we are going to extend the Gramm-Rudman-Hollings targets 4 additional years, through fiscal 1997, from 1993 to 1997. During that period, we will continue to reduce the actual deficit, which in fiscal 1993 would be roughly $100 or $99 billion, by approximately $25 billion a year; going 100, 75, 50, 25, until it is zero in fiscal year 1997.

Third, once the OASDI trust funds are taken off the budget, it is important that they be fully protected. Therefore, the proposal of the Heinz amendment, the Social Security Truth in Budgeting Act, would retain the equivalent Gramm-Rudman-Hollings 60-vote point of order before any legislation could be considered to use any of the Social Security surplus funds for any other purpose than that of current law. By the way, that current law clearly includes continuing annual cost of living increases.

Finally, this legislation specifies that all payments to the OASDI trust fund from general revenues, including interest, will be reported as they always should have been as outlays in the budget of the United States.

Mr. President, I urge my colleagues' support for a plan or a plan substantially like this that would ensure future retirees' benefits. Every day we postpone removing the trust fund, the more difficult and intimidating the task will become.

The day of reckoning for honest budgeting, in this Senator's view, cannot be postponed for future Congresses or future generations. The day that we should take this action is today or, if not today, very shortly after today. I ask my colleagues to carefully consider this proposal as a pledge to honest budgeting and ultimately the healthiest of economies that we would ever come to know.

Mr. President, since I have not offered this as an amendment, I do not need to withdraw it, but I do urge all my colleagues to examine it and to give me their thoughts and suggestions on how to improve it, if possible, and to join with me in making sure that calendar year 1990 and preferably the month of October 1989 is the year that we meet the confidence that our retirees and our workers who will be retirees had placed in us to do the right thing.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask permission that I be able to speak as in morning business and that the time be charged to our side.

Mr. BURNS. Mr. President, this is my first time through the budget process. I do not have the institutional memory of many of my colleagues on budget matters, although I have listened with interest to many of their horror stories. And I am certainly not an expert. In fact, I would say that in many regards I am speaking as an objective observer when I say that this is one of the biggest challenges I have ever seen.

I do not mean that as an insult to my colleagues who have been here a lot longer than I, and who have tried to obtain true deficit reduction. I know it is not easy, and I commend those who worked over the weekend to come up with a solution to this year's problems.

But before I address the pending reconciliation bill, I want to speak for a couple of minutes about certain aspects of the budget process prior to this point which make no sense to me, or—I would venture to say—most of the American people.

As a good mainstream Republican, I have often stated that true deficit reduction can only occur if we reduce Federal spending. I truly believe that. However, my first lesson in congressional budgeting came when the President's budget was first presented. At that time, I learned that the standard by which Congress measures which programs are cut and which ones receive increases is called the "current services" baseline. This standard assumes a 6-percent spending increase in every Federal program this year. How we will ever truly cut spending using this method escapes me. That is why I cosponsored the Commonsense Budget Act of 1989 authored by my good friend, Senator BOSCHWITZ. This legislation would require the President and Congress to compare budget numbers to what we actually spent the prior year. If that legislation was included in this reconciliation bill, then I would definitely vote for it.

My second budget lesson occurred when the Commerce Committee, of which I am a member, was considering its title of this massive reconciliation bill. We were presented with a number of options prepared by the committee staff, and as I looked over them I noticed that there were no spending cut recommended. They were all user fees or revenue raisers. Now, I thought, by the very definition of reconciliation, that committees were directed to "report legislation by a certain date that decreases spending or increases revenues." However, when a number of my colleagues and I raised the possibility of cutting spending, we were told that we could not do so—that cuts would not be scored or counted in our committee work on reconciliation. The logic of that still escapes me, and I intend to look into it further.

Now, to the matter at hand—this 1,316-page monstrosity. I have listened with interest to the comments made by Senators ARMSTRONG, HATCH, GRAMM, and others regarding the extraneous provisions in this bill. I have heard the chairman of the Budget Committee say that the provisions that truly address the budget deficit only make up approximately 100 pages of this bill. I say let's consider that 100-page bill. I'm sure that it is not perfect, but at this point it is at least manageable.

I can join many of my colleagues in saying that there are many provisions in this bill which I would like to see enacted. A number of bills which I have previously cosponsored, and urged the Senate to adopt on a number of occasions are incorporated in this bill. The repeal of section 89 of the IRS Code comes immediately to mind.

The Finance Committee also included a number of important rural health initiatives which I strongly support. These include the elimination of the urban-rural differential in Medicare reimbursement that currently exists. This is the essence of a bill, introduced by Senators BENTSEN and DOLE, of which I am a cosponsor. The classification of certain hospitals as regional referral centers would be continued for 3 years. This is the essence of a bill which I cosponsored with Senator MCCLURE. There are many other important initiatives as well.

There are also a number of provisions in this bill which I would hope are never enacted.

So I believe that in the name of fairness, and to restore some of this body's credibility on fiscal matters, we must strip all the extraneous provisions and just deal with the deficit reduction matters. I will support my colleagues in upholding the Byrd rule, and I will support my colleagues who want to go further.

Finally, I would still have serious reservations about even adopting a stripped-down version of this bill. I reserved judgment in May when we passed the fiscal year 1990 budget resolution on the $5.3 billion in revenues to be raised by the Finance Committee. I would say now that a number of the revenue provisions in this bill are questionable at best.

For example, there are a number of quick fixes which raise revenues this fiscal year by simply accelerating col-

lections. This approach, for the most part, is a one-time benefit to Government, but a long-term cost in additional paperwork for the taxpayer. These include: Changing collection of gasoline excise from semimonthly to weekly deposits, speeding up payroll tax deposits, and requiring estimated tax payments on corporate subchapter S income.

The best example of how far we are going with these accounting gimmicks is a provision included in this bill which stretches out the lump-sum annuities of Federal employees retiring next year from a 1-year payment to a 2-year payment. This provision saves $700 million in fiscal year 1990, but increases spending in fiscal year 1991 by $750 million. I do not call that deficit reduction.

Finally, I want to address the question of a capital gains tax cut. I also expressed my hope that this would be included as a part of this deficit reduction package in May. I am tired of hearing people say that the President is willing to trade deficit reduction for capital gains. I want to remind my colleagues that the President sees his capital gains proposal as deficit reduction and I agree.

Far too often we have heard how a reduction in the capital gains tax will benefit only the wealthy. Frankly, I'm confused. We must all be made aware that cutting capital gains increases the total amount of taxes paid by the more affluent. In fact, capital gains taxes paid by the wealthy more than doubled from $8.7 billion in 1979 to $18.4 billion in 1985. Under the Bush-Jenkins plan, revenues would increase by $9.4 billion in the first 3 years.

Now, I don't know about anybody else, but when we can decrease taxes and increase revenues to pay for:

Earned-income tax credits for low-income working families;

R&D tax credits to foster increased spending on research and development; and

Low-income housing credits to encourage the building of low-income housing.

This represents a sound policy—a policy that not only encourages investment but also raises revenues to pay for programs for the less fortunate.

And how about all the cattlemen and ranchers in the State of Montana. Cattlemen in particular, who oftentimes must keep their stock for extended periods of time, are not only adversely affected by a high capital gains tax rate but are further hurt by the fact that no indexing on such gains occurs. Mr. President, the same case can be made for the timber industry as well. As we all know it takes anywhere from 30 to 100 years for one single crop rotation to occur. In other words, if we would harvest and subsequently plant lodgepole pines today, they would not be ready for another 100 years. For the approximately 20,000 private wood lot owners in my State, a reduction in the capital gains tax and, more importantly, the fact it will be indexed for inflation, provides a vital incentive to go forward with the President's "Greening of America" initiative.

I think one of the most important things I have learned since arriving, is that this country must attempt to maintain a consistent policy on taxation. This body seems to be preoccupied with changing the Tax Code, as has occurred in the budget reconciliation package. Now I realize this will be no easy task, but if we are to plan for long-term investments, we cannot continue to change the rules in the middle of the game.

Mr. President, I intend to vote against the budget reconciliation package unless we are able to strip the bill of all extraneous provisions and provide the Senate and the American people with a true deficit reduction package free of budgetary gimmicks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORM IN THE CHICAGO PUBLIC SCHOOLS

Mr. KERREY. Mr. President, this morning I rise to celebrate a great political victory in Chicago, a triumph of grassroots political democratic action.

It is a triumph with many heroes. They were unwilling to accept the defeat which accompanied the reluctant acceptance of the status quo. These heroes include Designs for Change, Leadership for Quality Education, the American Federation of Teachers, the Parent Teachers Association, and other community and business groups who have demonstrated a willingness to put private capital on the line.

They include Chicago's Mayor Richard Daley whose support and advocacy were crucial. Former Mayor Harold Washington also deserves much credit. They include State representative John Cullerton and Gov. Jim Thompson who were willing to bring the State of Illinois into a city-school district partnership.

It is a triumph born of a faith that parents, teachers, and neighborhood leaders can run our public schools better than a top down, central board. It is a triumph over the entrenched bureaucracy that fought hard against it because they feared the heat of increased, direct accountability. Hundreds of bureaucrats have already been cleaned out from their comfortable jobs, and tenure is no longer a way of life for Chicago's 540 principals.

Mr. President, we have been in politics long enough to appreciate how dramatic this change is. Two days ago the decisions about Chicago's 410,000 public school students were being made by a central board. This morning, the schools of America's third largest school district are in the hands of 3,240 parents, 1,080 neighborhood leaders, and 1,080 teachers.

The intricate political negotiations which produced this radical transformation were extremely difficult and risky. The reformers share the same goals as those of Solidarity leaders who have set Poland on a new and dangerous course. The heroes of Poland and the heroes of Chicago looked at the status quo and found it to be lacking. They both have proposed radical solutions to ordinary problems.

The web of associations and rivalries inside Chicago's many social, economic and political groupings had to be addressed and understood by the valiant crew of committed citizens who have earned this victory. Again I find a parallel in Eastern Europe. In this case it rivals the effect of the factions inside and outside of Hungary's Communist Party as they move to shift toward a market economy and greater political freedoms. In both instances the established and entrenched bureaucrats resisted the changes because their jobs were jeopardized.

Mr. President, it is instructive for us to consider why the heroes in Poland and Hungary are extolled almost daily on the Senate floor while their American counterparts are not. In part it is because we are more skeptical of political action here at home. In part it is because national political leaders—like us—always worry about being challenged by an up and coming local leader. In part it is because we simply do not notice. Mostly, however, it is because we know if we watch too closely we will eventually have to spend some money.

Mr. President, we should not abandon the heroes of Poland and Hungary. Their accomplishments and the excitement of the Eastern European movements deserve our full attention. With the leaders of reform risking so much and with so much of the causes of peace and freedom at stake, now is not the time to be timid in Eastern Europe.

I am not here this morning arguing against helping the freedom fighters of Hungary and Poland. Rather, I am here to argue for the help of freedom fighters here at home in Chicago, IL.

The call to action was given on September 28, 1989, by President Bush at the University of Virginia in Charlottesville:

> I do not counsel a naive nostalgia, some tame adherence to the past. Business as usual is not getting us where we need to go. So when hallowed tradition proves to be hollow convention, then we must shatter tradition. The polls show what every PA board member already knows—the Ameri-

can people are ready for radical reforms. We must not disappoint them.

The people of Chicago have shattered tradition. They have shown they are ready for radical reforms. They are on the threshold of radically restructuring one of the worst school districts in America. Forty percent of Chicago's students drop out of school, and those who graduate perform very poorly on national scores.

If, in the isolation of these Senate Chambers, my colleagues do not feel the tragedy of the current situation in American schools today, listen to the voices of these American business leaders:

"The making of a National disaster," says David T. Kearns, chairman of Xerox Corp.

"A third world within our own country. If we continue to let children who are born in poverty fail to get the kind of education that will allow them to participate in our economy and our society productively, then some time in the 21st century this Nation will cease to be a peaceful, prosperous democracy", says Brad Butler, former chairman of the Procter & Gamble Co.

"The American dream turned nightmare", says James E. Burke, chief executive officer of Johnson & Johnson.

"Even the telephone operator job is now computerized. Directory assistance operators search a huge electronic data base to retrieve and deliver information to customers. Most of our clerical jobs require word processing, computer skills or both. In 1987, fewer than 30 percent of employment candidates met our skill and ability requirements for sales, service, and technical jobs. Only 15 percent scored at the proficient level on our typing test, and almost 50 percent of those tested were not qualified for jobs requiring even light typing. Over all, we estimate that fewer than 1 in 10 applicants meets all our qualifications standards", says John L. Clendenin, chairman of the board of the Bell South Corp.

These American leaders and many others are sounding the alarm. We need to hear the call and respond when our help is needed.

Mr. President, the parents, neighborhood leaders, and teachers who have taken over Chicago's schools need our help. They have found willing partners in the business community, city hall, and State government. Now, they need a Federal partner. For this cannot be seen as another local problem; this must be seen as a national crisis and challenge.

Mr. President, I propose to match the radical response of the people of Chicago with our own brand of radicalism. I propose to create a U.S. Educational Trust Corporation which will be a new Federal tool to renew America's schools.

As I envision it, the Educational Trust Corporation will become a partner with school districts, cities, States, and businesses like those of Chicago who are committed to making desperately needed structural changes. The Educational Trust Corporation will make 20- to 30-year performance-based commitments to help local parents, neighborhood leaders, and teachers.

To provide the Educational Trust Corporation with a source of funds, I would propose to close the loophole in our income taxes that permit very high income Americans to pay 5 percent less in taxes. This "bubble," as it has been called, will generate approximately $5 billion in revenues each year. I would further propose to use the model of Resolution Trust Corporation, which will enable us to bail out our savings and loans to permit the Educational Trust Corporation to sell 50 billion dollars' worth of bonds so that our work can progress more rapidly.

Let me make it clear that I see the Federal role to be limited to two general things the Federal Government does efficiently and very effectively. The first is to collect money. The local property tax base, supplemented with State income, sales, and most recently lottery revenues, simply cannot generate the dollars needed to dramatically improve the quality of people who run our schools and teach our children.

The second thing the Federal Government does well is to leverage higher performance standards. In this case I am proposing a carrot rather than a stick. I am proposing a Federal response to local action rather than a top down coercive Federal move.

This is entirely consistent with the action taken by President Bush and America's Governors to develop national education goals, and with the goals proposed on September 15, 1989, by the Senate Democratic leadership. These goals included early childhood development; basic skills; graduation and literacy rates; math, science, and foreign languages; access to higher education; and teacher shortages.

If the Educational Trust Corporation were in business today, it would already have begun to negotiate with school districts like Chicago. The Corporation would encourage additional changes needed if American children are to become all they were meant to be. The Corporation could do this by negotiating legitimate partnership contracts that required each party—schools, city, State, businesses and Federal Government—to perform according to agreed upon guidelines and standards.

The changes proposed by Chicago are as radical as they are necessary. They will create an environment of enhanced responsibility for teachers, principals, and parents. The potential for dramatic improvement is very great.

One thing has not changed, Mr. President, and cannot be changed by statute: The people who are hired to be the schools' principals and teachers will determine the eventual outcome of Chicago's reforms. The competition for good managers and bright teachers to leave education for higher salaries will only intensify. In short, Mr. President, the people of Chicago will eventually need money if they are to succeed.

In the reporting of the changes taking place in Hungary, an old Transylvanian adage was retold that applies to the school reform in Chicago: "The wolf changes its fur once a year, but it is still a wolf." The nearly 5,400 newly elected school council members and the children in 628 Chicago schools face such a wolf this morning, as they look into an uncertain and promising future.

The people of Chicago should not be left to fight this battle on their own. President Bush is right: Americans feel the time is right to act. Americans are ready, willing, and able to get the job done. What they need is a Federal educational partner who shares their powerful sense of urgency and has the same willingness to risk it all on the future of our children.

I yield the floor. I suggest the absence of a quorum.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, might I respond to my colleague from Nebraska and commend him for what he has just said. It is interesting that he is commenting on something that happened in the city of Chicago. If my colleague, Senator DIXON, or I were up commending the city of Chicago, you would say it is provincialism on our part, and you would expect it.

I think it is significant that a Senator from Nebraska is today commenting on what has happened in the city of Chicago and saying this is exciting.

We are going to have to do some exciting things, some creative things. Whether it is precisely as the Senator from Nebraska suggests, I do not know. But I like the thrust of it. I would differ on the bond issue part of it; we do not need any more indebtedness on the part of the Federal Government, but the rest of the idea, it seems to me, is fundamentally sound.

We are going to have to do something. We had a nice summit with the President and the Governors, great public relations, and I hope it does some good. It cannot do any harm.

But what we need, Mr. President, is a summit in Washington with the President of the United States and some key people like the Senator from Nebraska, who is creative and who says let us create a Federal partner-

ship so we can do something about the school situation.

The Senator mentioned the 45 percent dropout rate in the city of Chicago. Do you know what the drop rate is in our No. 1 competitor economically, Japan? Two percent. The Senator mentioned teachers. Teachers in Japan are paid approximately the same as lawyers, doctors, and engineers, the top 10 percent. Teachers in Japan on college entrance exams score way above average. I regret to say—I do not mean this disparagingly; there are a lot of good, fine teachers in this country—American teachers score below average.

Can we do something about it? Of course we can, if we make it a priority. The Senator from Nebraska, who is a new Senator but is one of the finest—we have discovered that in a short time—is saying let us do something and let us be creative about it. If we really want to do something about education in this country, let us have the President of the United States not just with a fine public relations gesture in Charlottesville, VA. Let us get together in Washington and talk about a Federal partnership. And then we are going to have to use some resources.

The Senator from Nebraska is absolutely right. One of the reasons we do not talk more seriously about education is when we do we are going to have to devote resources to it.

I ask unanimous consent that a statement by Congressman DAN ROSTENKOWSKI in today's New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRAMM-RUDMAN? LET THE AX FALL

(By Dan Rostenkowski)

WASHINGTON.—Now that the House has passed the Omnibus Budget Reconciliation Act of 1989, the deficit reduction bill designed to avoid automatic spending cuts under Gramm-Rudman, I have some advice for the members of the Senate, where the debate has stalled. If you think that the Federal budget deficit should be reduced, the surest way to accomplish that goal is to shelve this legislation and allow the Gramm-Rudman spending cuts to go into effect next Monday.

Every criticism of Gramm-Rudman is true. It is mindless, it represents an abdication of responsibility by the President and the Congress and it sends an awful signal to the markets about our ability to govern.

For all of its faults, however, Gramm-Rudman has one thing going for it—it can result in more real deficit reduction than we will ever achieve from the budget reconciliation bill.

The spending cuts under Gramm-Rudman, distributed across the board between defense and nondefense programs, would reduce the Federal deficit by $16 billion next year and by $80 billion over the next five years. By comparison, the legislation working its way through the Congress will reduce the deficit by only $16 billion over the next five years and will result in growing deficits in 1993 and beyond.

At the beginning of this year, we had a tremendous opportunity to confront the deficit. We had a new President, a new Congress and a growing public awareness of the need to put our fiscal house in order. Instead of grasping the opportunity, we decided on a "slide-by" budget, one that would provide only modest deficit reduction but that would set the stage for a grand compromise next year.

Whatever semblance of budget discipline existed at the beginning of this year's legislative process, however, has all but disappeared in recent weeks. The House, for example, rushed to accommodate budget-busting amendments to this bill. In addition to abandoning fiscal responsibility, the House fully retreated on several important initiatives, like repealing the catastrophic health care program, and started the assault on tax reform by passing a reduction in the capital gains tax.

I have been particularly distressed with the cynicism of President Bush's economic advisers, and his supporters in the Congress, in their approach to the entire debate. The Director of the Office of Management and Budget, Richard Darman, has enthusiastically decried "now-nowism": the pursuit of immediate gratification rather than planning for the future. The Secretary of the Treasury, Nicholas Brady, has forcefully endorsed incentives to encourage long-term economic growth.

Yet the Administration has substituted "slide-by" budget plans, blue smoke and mirrors, off-budget financing and short-term revenue "surges" for sound budget discipline. The President's budget advisers have been driven by political concerns, with little, if any, regard for the real consequences of their budgetary actions.

Popularly elected presidents enjoy their greatest power and influence in their first year in office. George Bush is no exception. Yet he is squandering his influence to pursue a tax cut for the wealthiest 5 percent of our population in a year when our deficit exceeds $130 billion and study after study show the gap between rich and poor widening. What kind of priorities does that represent?

Our refusal to attack the deficit would be comic if it were not so irresponsible. We want the Federal Government to step up the war on drugs, but we are unwilling to pay for it. We can't walk down the street without stepping over living, breathing examples of homelessness. We can't keep up with the bills for a cleaner environment. We hide the bills for the savings and loan bail-out off-budget. We have 37 million Americans without health insurance and a child poverty rate that is a disgrace.

In a year when we should have been engaged in a serious debate about the national priorities, the deficit provided a wonderful fog to obscure the hard decisions that should have been made.

It's the sad truth that we have a President who refuses to lead and a Congress that is institutionally incapable of leading the deficit reduction effort. This has left budgetwatchers wondering what crisis will force the President, the Congress and even the public to finally confront the deficit.

The answer is Gramm-Rudman. Let the cuts go into effect next Monday. Make them permanent and make them hurt. And when the budget process begins next year, maybe all of us, starting with the President, will be ready to meet our collective responsibilities to govern.

Mr. SIMON. I have not always agreed with my House colleague, Congressman ROSTENKOWSKI, but he is saying we have to get hold of this deficit situation. He is saying letting sequester take place is not good but it is better than just drifting.

This ties in with what the Senator from Nebraska just said. When you have a $2.8-trillion indebtedness, if you reduce interest rates 1 percent, you save $28 billion. What if we were really to get hold of this deficit, signal the financial markets we are doing it, reduce interest rates 2 percent—that still puts us more than double the interest rates in Japan and West Germany—and use half of that on education? That would mean a 130-percent increase in Federal expenditures on education.

I think we are fortunate to have as a colleague the Senator from Nebraska. I simply want to stand up here and say I commend him for talking about, facing, and coming up with some creative ideas as a nation. We have to do this.

Mr. KERREY. Will the Senator yield?

Mr. SIMON. I am pleased to.

Mr. KERREY. The Senator from Illinois has pointed out that if we were to take dramatic action on the deficit we could free up additional resources by reducing the amount of money required to service the debt of this Nation. That is a much more desirable way to fund what I am talking about. There is no question that I support it totally. If we could come up with a way to not sequester, but come up with a way to give the Federal Reserve the room to move so as to be able to expand the money supply and get interest rates going down, trying to get a couple hundred basis points relived on interest rates, it would be far more desirable because we have I think to look at trying to produce more products and goods and services. We do not simply need to be looking all the time for ways to tax our way out of this problem.

I would also point out in response to the Senator saying how a problem in Illinois is something the Senator from Nebraska will be concerned about: One, it is the Senator from Illinois who called upon us in the United States of America to be concerned about the freedom of people living in Poland, and that our response should not be timid, that our response not fall short of the mark, and it was a great opportunity here. If we did not seize that opportunity, that opportunity is likely not to come up again, the world could change, the door could slam in our face, we could find ourselves faced with the repressive government in Poland, and a much worse situation than we have right now—that we had to seize the opportunity while it is

there. He called to our attention the needs of the people of a nation across the Atlantic Ocean. We commend him for it.

I would call to the Senator's attention as well something that I know he understands. That is we have a similar kind of urgency to act in the United States today. Today there will be 3,000 children in the United States of America who will drop out of school. Monday there will be another 3,000 who will drop out of school; 3,000 students in the United States of America each and every day will drop out. They need a response. They need the kind of radical response that I see the citizens of Chicago being willing to attempt. They have taken over their schools.

Finally, I would point out I happened to be presiding the day that the Senator pointed out that the new Senate in Poland is being put together by freshmen Senators, and the risks associated with turning over representative democracy to the decisions of freshmen. Consider in Chicago we now have 5,400 freshmen members of the school council starting a business of running their schools. It is an enormous problem. It is extremely risky for these people to be attempting this.

Whether or not we can find the resources or not as I would like to do, at the very least we need to focus our attention upon people who are genuinely fighting for freedom right here at home, fighting for economic freedom for these young people so they will not leave the schools, fighting for prosperity for our future, and fighting for opportunity today.

I appreciate very much the Senator from Illinois calling our attention and urging us to action. I appreciate very much his kind thoughts.

Mr. SIMON. I thank my colleague from Nebraska. I agree with him on both accounts. First, there is no question we have to seize this opportunity in Poland particularly, and also in Hungary. We simply have to use the resources. This is one of those turning points in history. But in fact, every day for those 3,000 young people who drop out of school, that is a turning point for them in their history, and right now we have a dramatic change in Chicago.

There are going to be some bumps along the road. It is not all going to be smooth. But they recognize they have a problem of enormous proportions, and they are doing something about it. It is exciting.

We ought to be responding. We ought to be responding for a variety of reasons. But the Senator from Nebraska is right on target, and my hope is that somehow we can grasp this thing.

Frankly, and I do not mean this disrespectfully to the President. President Bush has been great in reaching out to those of us who are in Congress in both political parties in talking about various issues that are coming up, much better than under the Reagan Presidency.

Cabinet members are reaching out to us much more. But we are not facing the tough problems, the deficit. We are not facing that. This education thing we are not facing. The President has said he wants to be the education President, and he has proposed a $422-million program. That is nice. Four hundred and twenty-two million is one-thirtieth of 1 percent of the budget, almost nothing. He has proposed in his education budget one eight-hundredth of what he is suggesting we do to get that mission to Mars over. I think we had better—nothing against Mars; I do not know anyone from Mars—take a look at people in Omaha, and Blair, NE, where I hoped to be up there for a college homecoming this weekend at Dana College. Instead I am here on the floor of the U.S. Senate, and apparently we are going to be here tonight and tomorrow. But in Chicago and elsewhere we have to pay attention to our future. And that is in our schools. We are not doing it as we should.

I simply want to commend again the Senator from Nebraska [Mr. KERREY] saying let us do something. I hope the response will not just be silence on the part of the administration and our colleagues here in the Senate and the House.

Mr. President, I question the presence of a quorum.

Mr. President, I ask that the time consumed by my colleague from Nebraska and I be divided equally against the two sides in terms of the budget reconciliation.

Mr. DOMENICI. Reserving the right to object, and I will not object. Parliamentary inquiry. How much time remains on the bill?

The PRESIDING OFFICER. The Senator from New Mexico controls 2 hours and 6 minutes, and the Senator from Tennessee controls 1 hour and 59 minutes on the Democratic side, and all that time is charged.

Mr. DOMENICI. Of all the time used, it is charged to them?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. The suggestion from the Senator from Illinois is that it not be that way; rather it be equally, and I assume we will have about 2 hours and 1 minute?

The PRESIDING OFFICER. One hour and about 50 minutes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I question the presence of a quorum, and I ask that the time be equally divided during the quorum period.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I assume that this body is awaiting a motion by the leadership, or perhaps Senator SASSER, the manager of the bill, to strip this bill of extraneous measures. Apparently it has been agreed to, and I heartily concur with this agreement.

I watched my friend from Colorado, Senator ARMSTRONG, pick up this 13-pound bill yesterday and say "this is no way to legislate," and indeed, he was absolutely right. It is no way to legislate.

I have a couple of goodies in this bill myself. I know that sometimes all of us feel a little bit unclean in committees, because once we start to slice the melon, nobody wants to be left at the station, nobody wants to go home and tell his people that the melon has been sliced, and they did not get any of it.

So we just keep doing these things to ourselves over and over again. That, Mr. President, is not to say that all of the 250 so-called extraneous items in this bill are without merit. On the contrary, a number of them, in my opinion, are highly meritorious. Every one of them will be considered at some point later, even capital gains, the President's version of which I strenuously oppose.

I read in the Washington Post about 3 weeks ago, several articles in the same edition, about the disarray of the Democrats. They said we are bankrupt for new ideas, and as a Member of the Democratic Party, of course that hurts; it stings when people write those articles. Interestingly enough, the same day, the New York Times had an article about how the Democrats were finally getting it together. It is hard to know who to believe these days.

I am not going to relieve myself of a political tone here. I just want to say that maybe the Democrats have not been brilliant with new ideas recently, but just because an idea is new does not make it good. For example, I do not think SDI is a good idea. I thought for a while that the Stealth bomber was a good idea, but now at $600 million each for a plane that may not even come close to fulfilling the mission for which it was bought, it certainly does not look like it is going to be a very good idea.

I do not believe going to Mars at a cost of $400 million, when we have three million people in this country without homes, is a good idea.

I do not think the fact that we rank 18th in infant mortality rates, well behind Panama, in the number of our children who die before the age of 1 is a good idea. It is a real mystery to me that we spend $150 billion a year that we do not have and we cannot provide homes for the homeless and we cannot seem to provide health care for the most vulnerable in our society, our children. Twenty-one percent of the children in the country below the age of 14, live below the poverty line. Can we really call ourselves a great nation and stand on the Senate floor and admit those irrefutable figures? I do not think adding 600 percent to the national debt in 13 years is a good idea. I did not think that the tax cut in 1981 was a good idea, and I stood right here at this desk—I was 1 of 11 Senators who voted against that bill—and made a very simple statement. I said you pass this tax cut and you are going to create deficits big enough to choke a mule. We promptly passed the tax cut and created deficits big enough to choke a mule and so far nothing has been done to rectify it. I mentioned a while ago I was opposed to the President's proposal on capital gains. I do not think it makes any sense. Why would we want to add $12 billion to the deficit over the next 5 years? Mr. President, did you know as of 10 minutes ago the stock market is down 110 points today? It is in a free-fall. You remember, on October 19, 1987, just 2 years ago, 6 more days and it will be 2 years, the stock market dropped 500 points in 1 day. I am not sure what caused this precipitous fall today, but I can tell you that at the root of it is the deficit. You pick up the Wall Street Journal in the morning and you are going to see big headlines in every paper in the country about the stock market and what happened to it today.

There are still 30 minutes left before the market closes, and it is dropping about 10 points every 10 minutes.

You will see stories in the morning about how the inflation figures that came out today might have caused it or airline stock or junk bonds, or some other event caused it. Underlying it all is the fact that the deficit is still out of control and the people of this country perceive that Congress is unwilling to address it.

Why would I vote for a bill—you can call this liberal, you can call it populist, you can call it anything you want to—why would I vote for a bill that adds $12 billion to a deficit that is out of control and 60 percent of the $12 billion goes to the two-tenths of 1 percent of the richest people in America?

A person near and dear to me said yesterday the people are tired of you Democrats redistributing the wealth or at least trying to. I said you are talking to a Democrat who is pretty sick of the redistribution of wealth too. In the last 8 years the top 20 percent of the people of this country have increased their share of the national wealth by 16 percent while the bottom 20 percent have lost 9 percent. I am pretty sick of that kind of redistribution, and now we want to add to the pocketbooks of those who have been blessed with prosperity.

So why would I vote for a bill that increases the deficit by $12 billion and 90 percent of it goes to people who make over $75,000 a year? In my State the median income is about $25,000. We have very few people who would ever derive a dime from this bill.

Mr. President half the families in my State make less than $25,000 a year and half of them make more. I recently listed my farm for sale, long before this bill was even considered. It is like cutting my heart out to sell my farm, but I just do not get enough rent off of it to warrant keeping it. I do not get to go there and enjoy it like I once did; wallow in the wild flowers, commune with nature, and watch coyotes, raccoons, and squirrels play.

So I decided to put it on the market. And if George Bush has his way, he will put an extra $30,000 in my pocket and I am not going to create one job by selling my farm. All I am going to do is not pay $30,000 in taxes that I was willing to pay when I put the farm on the market.

I have watched the stock market in the last few days and the volatility of it, and I have told some of my colleagues that I believed the market was very jittery. I told my wife Betty, as recently as 3 days ago that the market is ready for another tumble. There was simply no underlying economic factor to justify the increases we have been witnessing.

Mr. President, stripping this budget reconciliation bill of all the extraneous items is an excellent idea. It is not going to con the market, it is not going to reassure the American people that Congress is finally serious about deficits, but we will say to the American people at least we are disciplined enough here to do something that is very difficult. You know what we are striking out of that bill, among 249 other items including a $1.2 billion authorization for child care. Other than perhaps Senator DODD, I do not believe there is a person in this body who feels stronger about that bill than I do, and I hate to see it stripped out because we have to start all over again, and I know how difficult that is. Maybe impossible.

The President has threatened to veto the bill if that is in it, despite the figures I just gave you about the poverty level of children in this country, despite the fact that 87 percent of the women in this country who work say they do it out of economic necessity. They do not do it so they can go out and kick up their heels; they do it so they can go to work and provide the persons they love more than life itself, their children, with clothing, housing, and a decent education. And the least Congress can do is to assist in providing decent facilities for these children to be left in, a safe wholesome environment while their mothers do what they have to do—work.

It is especially critical to single women, heads of households. It does not speak well for us, Mr. President, that probably less than 50 percent of the fathers of this country who have the obligation of supporting their children, do so.

I am almost ashamed to admit this on the floor of the Senate, but I voted against Everett Koop when he came up for confirmation here as Surgeon General of the United States. All the public health administrators of the United States opposed Everett Koop.

I watched Nova last night on PBS, and I watch PBS more than I do anything else, and Nova is always good but last night there was an especially good documentary on former Surgeon General Everett Koop. I tell you he is not just the finest Surgeon General we ever had. He is a brilliant man. My daughter and I watched it. I said, "He is absolutely brilliant." She said, "he may be but really all he is saying, Dad, are just things that make common sense."

He talked about how the administration got upset when he came out with a book on AIDS because he was very explicit about how you deal with AIDS. He was very explicit about the fact that this is not just a homosexual problem. He was very specific about the fact that it is going to spread through the heterosexual community one of these days. He was specific about the fact that teenagers who think that because only 2 percent of the teenagers of this country are known to be infected, they think they are safe. But you know where the highest incidence of AIDS is? It was among people between the ages of 20 and 27. You know something else. They became infected when they were teenagers, they just were not showing symptoms of AIDS. So now the incidence of AIDS amongst teenagers, based on a very detailed story said just 3 days ago, say teenagers are very cavalier about AIDS and have not changed their habits.

Then I heard some people on the other side from the Surgeon General saying abstinence is the only way to deal with AIDS.

I can tell you, Mr. President, that that is a happy thought. But I wondered how some of those people who were talking conducted themselves when they were teenagers and youngsters. And the Surgeon General is saying it is not a question of whether that is the only solution. He was

saying that in case they do not abstain, and about 70 percent do not, what do you do then?

Mr. President, I hope this bill will pass without further ado. If the leadership moves to table all the amendments, I am going to support the leadership. I want the bill passed. I am not interested in proclaiming victory.

A reporter asked me a while ago, "How can I possibly not write this as a great victory for the President?"

I said, why does someone have to have a victory?

I must tell you that in all candor, one of the things that used to irritate me most about Ronald Reagan; mind you Mr. President, I said one of the things. Every time he won a battle here in the Congress, he called it a great victory for the people and every time he lost one he could not believe how partisan and irresponsible Congress was. But, nobody is winning here except the American people. You do not have to have political winners and political losers in every bill that passes.

Of course, the press is going to report it one way or the other. There is not any way to stop that. But I am grateful to the chairman of the Appropriations Committee, the majority leader, the minority leader, the ranking members, the chairman and ranking members of the Budget Committee for sitting down and negotiating in good faith and coming up with the idea of stripping this bill of all those extraneous items.

Mr. President, do you want to hear something really sad? For over 100 years, the lower Mississippi River Delta has been the poorest area in America. I think my former distinguished colleague Senator Stennis, before he left the Senate, said his one regret was that he had never done anything to alleviate and address the problems of poverty in what we in that area call the delta. Eleven million people living from the southern tip of Illinois to the mouth of that river in New Orleans, 11 million people and over 40 percent of them living below the poverty line. And so I introduced a bill to do something about it.

I take some pride, Mr. President, in the fact that this situation has existed 100 years and as best I can tell, I am the first person to ever even notice, let alone try to do something about it. But last year I got a bill passed to establish a commission, funded at $2 million, to study the problems over a 2-year period and come to Congress with recommendations on how we can alleviate what I consider to be the worst blights on this great Nation.

It is hard to get anybody interested in something unless it happens in their State. I had no difficulty lining up every single Senator in the seven States affected to cosponsor the bill. They know and understand the problem. But you have difficulty getting anybody else's attention.

I will tell you an interesting little personal story. Senator BRADLEY, our esteemed, beloved colleague from New Jersey was in Mississippi last year. He was campaigning for MIKE ESPY. MIKE ESPY's district is in the heart of the delta. He has in his district, Tunica County, which has consistently been the poorest county in America, well over 50 percent poverty for as long as the memory of man runneth.

And when I walked in that door across this Chamber on Monday morning, Senator BRADLEY came toward me and said, "Don't you have a bill in here on the delta?" I said, "Yes." He said, "Put me down as a cosponsor." I said, "I don't understand this." He said, "I spent the last 3 days in that area and I will help you any way I can. I could not believe what I saw."

And today the Wall Street Journal has a long, detailed description of the problem. Mr. President I ask unanimous consent at this point that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 13, 1989]

RIVER OF DESPAIR: ALONG THE RICH BANKS OF THE MISSISSIPPI LIVE POOREST OF U.S. POOR

(By Dennis Farney)

ELAINE, AR.—It could be a dog house, up on bricks above the gluey yellow clay. Except that it is bigger than a dog house—and a human being lives inside.

In the dank, dark interior of his two-room shack, 63-year-old Robert Britton sits on a bed with sheets gray-black with grime. His conversation rambles at the edge of incoherence. He hitches a pant leg up and down in an absent, almost mechanical way.

You leave him, finally, standing on his porch. "Don't you worry about me," he says with a wild laugh. A cold rain beats down on his grim little house and those surrounding it.

To the north, up the winding, gunmetal-gray Mississippi River, Renee Lamm talks with quiet wonderment of her medical practice, straight out of the Great Depression.

COUNTY'S SOLE DOCTOR

She is the only doctor in Lake County, Tenn. The nearest X-ray machine is 35 miles away. Dr. Lamm tries to diagnose with a second-hand microscope, then usually discovers her patients can't afford the medicine. She recently helped save an infant boy with a liver abscess as big as a softball. She blames sewage-polluted drinking water.

"These are the kind of things you see in Haiti or Mexico," Dr. Lamm says softly. "Not the United States."

But this is the lower Mississippi Delta, certified by Congress as the poorest region in America. Poorer than Franklin D. Roosevelt's Tennessee Valley, poorer than John F. Kennedy's Appalachia. Poorer and much blacker—and thus politically neglected until a rising black vote began transforming Southern politics.

Further proof of that transformation comes Monday, when a year-old commission makes it initial report to Congress and the White House. It will test whether Washington, hamstrung by deficits and debating how many B-2 bombers to buy at $500 million apiece, has time and money for a rural region where infant mortality rates in some counties rival those of Third World countries.

BURDEN OF HISTORY

Behind the statistics assembled by the Lower Mississippi Delta Development Commission lie the paradox and the burden of Delta history.

"We have the river. We have a central location. Yet we've had 100 years of poverty," says Ed Jones, a retired Tennessee congressman and a member of the commission. "It's not just economically based. The effort to keep some down kept all down."

Or, at least, most down.

For here is a region that epitomizes the extremes of American wealth and poverty. It is almost unbelievably fertile, with topsoil 25 feet thick or more. It has mansions and big cars and a wealthy gentry that for decades has gathered round the fountain in the ornate lobby of Memphis's grand old Peabody Hotel. It has fields of cotton like white flowers in bloom, rice and soybeans and venerable tress that lend a benignant grace to even the poorest dwelling. Its place names roll off the tongue like molasses—Tallahatchie and Yalobusha; Gilt Edge, Tenn., and Braggadocio, Mo.

But, especially along the Mississippi, it has county poverty rates that range from 20% to 50%-plus. In testimony before the commission, one Tennessee civic leader told of building a fence around a school to keep children from playing in raw sewage. It has white as well as black poverty, and good ol' boys who gather over coffee to talk of dove hunting and running deer with dog packs.

Official segregation, of course, is dead. But a de factor segregation lives on. In Helena, Ark., black youths cruise over lower Walnut Street at night; whites cruise Cherry Street, a block away.

What the Delta doesn't have is a stabilizing middle class. "Most of our 'middle class' is two paychecks away from poverty," says Wilber Hawkins, the commission's own executive director. At West-Helena, Ark., attorney L.T. Simes dryly observed in one hearing: "Some have said that we have too many rich people and too many poor people."

The poor tend to melt into the background, along back roads or in notorious neighborhoods such as Sugar Ditch, a place of shacks and open sewers finally cleared away by Tunica, Miss., after it helped land the town on CBS-TV's "60 Minutes" several years ago. But they stand out grimly in a place they call The Line. It is a grubby little neighborhood in West Helena where blacks bring their dreams to die.

"You can get a lady here for $5," says Linda Messenger, an energetic federal worker who grew up not far away. Then she talks of a woman who sold herself for 25 cents. Behind a dumpster on a street.

"In this area, a good husband is hard to find," says Ms. Messenger, who has three children and has married a second time. After a series of brutal experiences, she reached a determined conclusion: "I'm not going to let men pull me down."

Out beyond The Line, in a small house amid the soybean fields, a 31-year-old woman named Beulah (she declines to give her last name) struggles to survive with seven children and no husband in the home. She sits watching Oprah Winfrey on TV

and talking—haltingly, as in a dream—of her life and her children: "I just started so fast."

Beyond sheer poverty and human wreckage, the Delta got a bigger dose than either the Tennessee Valley and Appalachia of what Mr. Jones, the former congressman, calls "the plantation mentality." It is an ingrained attitude—rooted in the region's history. The landowning rich remain complacently superior. "Whereas they once rode horses [to oversee their holdings] they now ride pickups," Mr. Jones says. The poor, too often, remain apathetic, without any realistic job prospects and utterly dependent on welfare.

In Phillips County, Ark., home of The Line and the hardscrabble town of Elaine, government transfer payments are a top industry, bringing roughly $20 million a year. "Everybody's on relief and food stamps," Mr. Jones says. "You can't help them, except keep them alive."

HIGH INFANT MORTALITY

Even that can be hard to do. The commission notes that 1980-84 infant-mortality rates in four Mississippi counties exceeded 25 per 1,000—worse than Panama's. And its statistical portrait of the region portrays a social fabric fraying away like a cheap rug on the floor.

The commission estimates that 47 of the 214 counties in its target area have poverty rates exceeding 30%, with many of the rest topping 20%. Based on 1979-80 census figures, it says that in Lake County, Tenn., some households (a loose definition that could mean one person or a dozen) were trying to live on as little as $1,954 a year, excluding Social Security.

That Pope County, Ill., had a high-school dropout rate just shy of 53%. And that only four Arkansas counties accounted for one-third of that state's infant mortality in 1986.

At rock bottom, measured by its estimated 50% poverty rate, is Tunica County, Miss. Bobby H. Papasan, a thoughtful, candid man who is the former school superintendent there, defended his town and county on CBS. But he admits, "One of the ways we kept down the dropout rate was to pass out cheap diplomas. And, let's face it, our definition of high-school education may have been one of the lowest going."

It is almost impossible for an outsider to see the world as Tunica children see it, he says over lunch at the Blue and White Restaurant. He recalls questioning young children to determine the boundaries—the outer limits—of their world. For many, the world ended short of the county line. Today, he says, some of the best high-school graduates, girls as well as boys go into the military. It's a way out, an escape.

But the Delta already has witnessed one great escape, a forced human migration that ranks with that of the Dust Bowl Okies to California. The post-World War II agricultural revolution brought great machines that prowled the fields like metal beasts. That uprooted tens of thousands of sharecroppers and propelled them into cities such as Memphis and Chicago.

FROM BAD TO WORSE

Sharecropping was bad. The plantation owner tethered the sharecropper with lines of credit from the plantation store; when another plantation "brought" him, it paid off his debts. But what the great migration left behind may be worse: A land that, for many, has no jobs of any kind.

To create jobs, Democratic Rep. Mike Espy talks of building "value added" processing plants to supplement the largely agricultural economy. As a case in point, he has already persuaded the Army to eat about 65% more catfish—after cotton, Mississippi's largest cash crop, he says. Mr. Espy, a House leader in the commission legislation, represents a Delta district where unemployment averages 12% but, among blacks, nears 50% in some counties.

Rep. Espy, in 1986 the first black elected to Congress from Mississippi since Reconstruction, epitomizes a second revolution, a still-continuing political upheaval that has reshaped the Delta and made creation of the commission politically possible. The civil-rights movement of the 1960s produced the Voting Rights Act and a swelling black vote. The black vote, as much as anything, was responsible for the 1986 elections of several white Democratic senators, among them Georgia's Wyche Fowler, Alabama's Richard Shelby and Louisiana's John Breaux. At the same time, traditionally gut-Democratic Mississippi has two Republican senators now, Thad Cochran and Trent Lott, who themselves are reaching out to black voters.

These crosscurrents create a unique window in time when a concerted Delta development program is at least politically possible. But creating it won't be easy, and funding it will be even harder.

"The country's broke, unfortunately," says Arkansas Democratic Sen. Dale Bumpers, the prime Senate sponsor of the commission. "And you cannot put in enough Federal money, even if we had it, to solve the problem." (The commission is charged with designing a 10-year recovery program.) Instead, Sen. Bumpers talks of a combination approach: Some new money, a retargeting of existing federal programs, more federal-state-local cooperation and more federal purchases of Delta products. "It's supposed to take 10 years. It may take a second 10 years," he says.

At stake is the future of a region already bypassed by much of the postwar economic boom and now in danger of being left hopelessly behind in a computer-age America. "All we want is a little piece of the pie," says John E. Vaughn, the Tiptonville, Tenn., city attorney. "It's a wealthy country. Just a little piece of the pie."

Mr. BUMPERS. But I have warned the people of the delta not to think the U.S. Treasury is going to solve the problem. We are broke. We are broke. We are not going to be able to take money out of the Treasury and do it. Oh, we might be able to help some. But this Commission is going to have to come up with some creative ideas. Maybe we could make more purchases by the Pentagon or government in general from suppliers in the delta. But for us to sit by and allow this shameless poverty to exist in a land of plenty is unacceptable, and I intend to continue pursuing that as long as I am in this body.

Mr. President, one other little thing that is unrelated. I was reading an article in the same Wall Street Journal about Roh Tae Woo, the President of Korea, who is coming here next week to visit with President Bush. We welcome him. I guess he is really the first democratically elected head of state the South Koreans have had.

We are doing everything we can to promote democracy all over the world—Hungary, Poland, South Korea, you name it. And this morning, as you know, a bunch of rioters broke into the American Ambassador's residence in South Korea, and looted the place. In my opinion, that was obviously done to embarrass the President of South Korea as he came to this country for an official visit.

As you know, Mr. President, I offered an amendment the other evening, along with Senators BENTSEN and JOHNSTON, to start withdrawing our troops from South Korea. But I want that decision, which certainly is going to be made, I want it to be made on the realities, not some episode that a few renegade students in South Korea caused in an effort to embarrass their President. The amendment to start withdrawing our troops from South Korea stands on its own merits, stands on its own rationale.

It is true that as long as we have the kind of presence that we have in South Korea now, the dissidents are going to blame us for every untoward thing that happens in the country. And perhaps one reason to remove ourselves would be to remove ourselves as the lightning rod and perceived cause of every untoward thing that happens in South Korea.

Mr. President, I will close. I know the Senator from South Carolina is waiting to speak. But I just want to say that once we pass this bill today, this reconciliation measure, I will be pleased, grateful to those who negotiated this compromise to get it passed. But this body is going to still be faced with the country's No. 1 problem, the deficit. When you consider the fact that in 1976, when Jimmy Carter held up his right hand and said, "I will," the deficit was a little over $400 billion. Mr. President, that was 13 years ago.

You think about the deficit at that time, created during the preceding 187 years; that was the year we celebrated our 200th birthday but actually it was the 200th birthday of the Declaration of Independence. It was not until 13 years later that the First Congress convened. So I guess you could say that that $400 billion debt the country owed at that time was what we had accumulated from 187 years of our history. And listen to this: In 13 years, in 13 years, we have increased the debt 600 percent to $2.8 trillion.

So, when my daughter said last night, Surgeon General Koop may be a brilliant man, but he is just talking sense, I thought, there is not a dirt farmer in my home county of Franklin, in the great State of Arkansas, who does not know this country is not going to make it continuing our present path. When we consider where we stand in education, infant mortali-

ty, 38 million people with no health care, 3 million people homeless, getting drug use under control which will cost tens of millions, dead last in education by every measure, the billions we are going to have to spend to clean up our environment, or as Chief of Seattle once said: foul our nest until we won't be able to sleep in it.

What is it, 50 million, 80 million bridges in this country that are falling in? Think about our problems. It is going to take, not just some creative thinking, Mr. President, but it is going to take some spine stiffener.

In the fall of 1986, some of us said, "Instead of cutting the tax rate from 38 percent to 28 percent, leave it at 38 percent until we see the deficit on a definite downward spinal."

We said let the Defense Department take a 5-percent cut, too. We cut the costs of living for everyone, and we promised to balance the budget in four years. We had 43 cosponsors on that bill, Mr. President.

Senators began to come on the floor and people said: You better not vote for that. You know how volatile cost-of-living increases are. We had 43 cosponsors and we only got 25 votes. Sure enough, when I ran in 1986 I had to face that. But I got 62 or 63 percent of the vote, so I just say to my colleagues, it is not fatal to do something that is really responsible around here and go home and talk to your folks about it. Don't be afraid to talk sense to them. They know common sense when they hear it.

Mr. President, this is the first time I have spoken on the floor for some time. This is the first time I have spoken on this bill. I hope I haven't inconvenienced anybody, but the Senator from South Carolina has waited patiently, Mr. President, and I yield the floor and give the Senator from South Carolina an opportunity to speak.

The PRESIDENT pro tempore. The senior Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I ask unanimous consent to proceed as if in morning business and charge it to this side.

The PRESIDENT pro tempore. Without objection, the Senator may proceed to speak out of order and with the time charged against the time on his side.

FLAG PROTECTION AMENDMENT

Mr. THURMOND. Mr. President, I rise today to have printed in the RECORD three articles and a resolution unanimously adopted by the American Legion in support of a constitutional amendment to protect the American flag. The resolution was adopted by the Legion at their 71st national convention in Baltimore, MD, earlier this year, and was included in the October 2, 1989, edition of The American Legion News Service, along with three other articles about the flag.

Speaking from the standpoint of my own involvement with the American Legion, I know of no group more qualified to speak and write about the importance of the flag to the life of our country. These are the people who have worn the uniform, borne the battle scars, and literally carried the flag into battle. Because of their experiences, many of them have a depth of understanding of the flag, which many Americans may not have.

Accordingly, when their 3 million members speak, it is important that we carefully consider what they have to say. In this case, they have spoken in a clear voice in support of a constitutional amendment to protect the flag.

Shortly after being discharged from the Army at the end of World War II, I joined American Legion Post 30 in Edgefield, SC, and later moved my membership to post 26 in Aiken, where I maintain my permanent residence. Today, I am proud to be a life member of the Legion. The members of the American Legion are true believers in America and the inherent goodness of our people. The principles of the Legion are lofty, and its work with Boys and Girls State, Americanism oratorical contests, and high school summer baseball programs represents the best of what is good for America.

I personally believe an amendment to the Constitution is the best way to assure protection of this enduring symbol of our Nation, and I am pleased to be the sponsor of such an amendment.

Just last week, the Senate passed H.R. 2978, a flag-protection statute, which I supported. However, as mentioned, I continue to believe a well-drafted constitutional amendment is the most prudent course to follow to ensure the integrity of the American flag. We will soon have the opportunity to vote on a constitutional amendment. I see no reason why this Congress should not also pass the amendment. As a practical matter, the Federal statute would likely be in place, while the State legislatures consider a proposed constitutional amendment.

Mr. President, in closing, I want to also take this opportunity to commend the newly elected national commander of the Legion, Miles Epling, for his fine leadership on flag protection. In addition, I want to commend the immediately past national commander, H.F. "Sparky" Gierke, for his testimony before the Senate Judiciary Committee on a flag-protection amendment. Each of these men have given a great amount of their time to this Nation, not only in the Armed Forces, but also in their leadership posts.

Mr. President, I ask unanimous consent that the articles and resolution I previously mentioned be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBJECT: FLAG DESECRATION

Approved as Consolidated—Resolution No. 355 (Convention Committee on Americanism)

Whereas, The Constitution of the United States provides many readily available methods of expression which can be used as a form of protest; and

Whereas, There exist federal and state penal codes to protect the Flag of the United States from desecration, and

Whereas, The Supreme Court of the United States, in TEXAS vs. JOHNSON, decided June 21, 1989, ruled that an individual could not be prosecuted for desecrating the Flag of the United States, as such an act was constitutionally protected as freedom of speech under the First Amendment to the United States Constitution; and

Whereas, This ruling established a precedent which may invalidate all existing state and federal laws which have been enacted to protect the Flag of the United States from such malicious abuse and desecration; and

Whereas, Neither our Founding Fathers, members of Congress and State Legislators, nor any responsible person in the history of our Republic, ever intended that anybody should be allowed to desecrate and mutilate the very Flag which has stood as a beacon of hope to the oppressed peoples of the world; and

Whereas, The Flag of the United States is a living symbol of all our freedoms, morally obligating all responsible citizens to preserve, protect, and venerate the Flag of the United States; and

Whereas, Protection of the Flag of the United States from desecration can only be assured by the enactment of a Constitutional Amendment; and

Whereas, The American Legion spearheaded the development and adoption of the United States Flag Code and the several laws enacted to protect the Flag of the United States; now, therefore be it

Resolved, By the American Legion in National Convention assembled in Baltimore, Maryland, September 5, 6, 7, 1989, That the American Legion express its unequivocal opposition to allowing desecration of the Flag of the United States; and, be it further

Resolved, The American Legion encourage its members and all Americans to wage a "positive protest" through a petition drive in support of the adoption and ratification of a Constitutional Amendment, giving the Congress the power to enact narrowly drawn legislation to protect the Flag of the United States, and by displaying the Flag of the United States on a daily basis; and, be it finally

Resolved, That the American Legion petition the governments of the United States and the Fifty States, seeking adoption and ratification of a Constitutional Amendment giving the Congress the power to enact narrowly drawn legislation to protect the Flag of the United States.

COMMANDER CALLS FOR "REDOUBLED" CAMPAIGN FOR FLAG'S PROTECTION

WASHINGTON.—National Commander Miles S. Epling has called on the more than 3,000,000 members of The American Legion

to redouble their efforts to seek a constitutional amendment to protect the U.S. Flag from physical desecration.

"We have won a big victory in forcing the House of Representatives leadership to permit a full House vote on a flag amendment proposal," Epling said, citing:

1) The effect of the "first wave" of more than one million signatures on Legion petitions presented Aug. 31 to Congress.

2) The results of a Gallup Poll which showed a large majority of Americans support a constitutional amendment to protect the flag.

3) And Congress' reaction to a flood of phone calls to House and Senate members by Legionnaires from a phone bank at the National Convention in Baltimore, where delegates unanimously approved a resolution calling for a constitutional amendment to protect the flag.

In a letter to all post and department commanders, and other Legion leaders, Epling appealed to all Legionnaires, Auxiliary members, and Sons of The American Legion to continue the campaign to gather signatures on petitions calling for a constitutional amendment.

"We may have won a battle," Epling said, "but the war is not over until the flag is protected by a constitutional amendment." The National Commander asked that all members also set up telephone banks in their communities and appeal to their neighbors to contact their Congressmen and Senators by mail and by phone.

"We know that a piece of flag protection legislation like that passed by the House on September 12th will not survive a court test", Epling said. "We must keep up the pressure on both the House and Senate by more petitions and phone calls because both bodies have scheduled votes on flag amendment proposals during the week of October 16th. We will not be satisfied until Congress has adopted and the states have ratified a constitutional amendment that prohibits physical desecration of our flag."

Commander Epling reminded all commanders to appoint a three member Citizens Flag Honor Guard Committee at post, district, and department levels, to oversee the campaign to achieve an amendment. Names and addresses of the Flag Honor Guard Committee members should be sent to the Americanism Commission at National Headquarters as soon as possible.

Senate Panel Hears Legion on Flag Amendment

WASHINGTON.—The American Legion's support for a constitutional amendment to protect the U.S. flag from desecration is as strong as ever, and is bolstered by a groundswell of petition signers and the results of a Gallup Poll, Congress has been told.

Testifying before the Senate Judiciary Committee, Immediate Past National Commander H.F. "Sparky" Gierke said, "I urge the members of Congress to resist the most expedient course of action and take instead the most effective one."

Gierke's testimony before the committee, chaired by Senator Joseph Biden, D-Del., followed comments by Sens. Robert Dole, R-Kan. and Alan Dixon, D-Ill. Both senators supported the efforts to draft and approve a constitutional amendment.

In his opening statement, Sen. Biden noted that the hearing followed by one day the House's approval by a 380-38 margin of a statute to protect the flag. The bill, which one member of the House called the "Flag Burners' Protection Act of 1989," is designed to make it illegal for anyone to destroy the flag.

"The purpose of this hearing is to decide what, if anything, should be done to protect the flag," Sen. Biden said. Besides Sens. Dole and Dixon, representatives of the major veterans' organizations discussed their groups' view on flag protection.

The committee's ranking minority member, Sen. Strom Thurmond of South Carolina, said that he supported the statutory and the amendment process. "A statute might protect the flag," he said. "A constitutional amendment definitely would.

"If anyone understands the meaning of the flag, it is the veterans of this country."

Senator Dole's testimony centered on his support for a constitutional amendment as the only reliable remedy to the dilemma of how to effectively protect the U.S. flag.

"After the (Supreme Court) decision in June, I was puzzled and disappointed," Dole said. "I couldn't put it together. You can't destroy money. You can't destroy a mailbox. In some states you can't even cut those tags off your mattress, but the Supreme Court said that you can burn the flag."

He referred to the Legion-sponsored Gallup Poll, which showed an overwhelming number of Americans support a constitutional amendment and do not feel that their rights will be threatened.

"The amendment we propose will protect the flag," Dole said. "It will do nothing more and it will do nothing less."

"It is clear that the people of this country are angry. I do not question anyone's integrity or patriotism, but we must understand that the flag is the one symbol that unites us as a nation. It transcends all of our differences and our diversity.

"The flag deserves constitutional protection."

Senator Dixon noted that public opinion polls across Illinois showed overwhelming support for a constitutional amendment. "This issue is still alive across the country, even if it is not in the headlines. The people know what they want."

"The people," Dole noted sardonically, don't get to hear from the 'experts.' They have to make up their own minds."

Sens. Patrick Leahy, D-Vt., and Paul Simon, D-Ill., said that they deplored flag burning, and supported a way to punish those who would desecrate the flag, but stopped short of endorsing an amendment. "We cherish the Constitution," Leahy said. "We have to be careful about chipping away at the Bill of Rights."

Sen. Orrin Hatch, R-Utah, said that he would not only vote for an amendment, but would also vote against legislation. "We cannot get into the business of trying to overturn Supreme Court decisions by passing statutes," he said. "The proposed amendment does not alter the Bill of Rights in any way."

Senator Biden asked Gierke if the Legion would continue to support a constitutional amendment if he could guarantee that a statute would protect the flag and not be overturned by the Supreme Court.

"The American Legion does not seek to complicate this issue," Gierke said. "But, I don't know how you can make such a guarantee."

Biden also asked if the Legion would be opposed if patently offensive groups displayed the U.S. flag at their meetings. "We are simply trying to undo what has been done," the Legion's former commander said. "As long as any group displays the flag properly and shows it the proper respect, the proposed amendment would not apply."

Flag Protection Proposal Draws Delegates' Unanimous Approval

BALTIMORE.—The 71st National Convention of The American Legion unanimously adopted a resolution calling for a constitutional amendment to protect the U.S. flag from physical desecration.

Resolutions from 32 departments were consolidated into Resolution 355—"Flag Desecration." Gary Sammons of Michigan, chairman of the Convention Committee on Americanism, in presenting the resolution to the delegates for their action, said most Americans feel anguish, hurt, and humiliation over the U.S. Supreme Court decision considering flag burning as part of political protest constitutionally protected as a freedom of speech under the First Amendment.

The resolution details the Legion's concern over that decision, noting the ruling "establishes a precedent which may invalidate all existing state and federal laws which have been enacted to protect the flag."

The resolution calls for the Legion to continue to lead the nationwide petition drive in support of a constitutional amendment. Before the convention opened, more than one million signatures had been counted.

The resolution also continues the Legion's positive protest theme to display the flag in accordance with the U.S. Flag Code which was developed with significant Legion coordination.

After the passage of Resolution 355, the house lights dimmed and an video production, featuring actor Larry Wilcox, was shown on two giant television screens. Wilcox told of his strong support for the constitutional amendment and deep belief in the flag which he described as "probably my best friend."

With adoption of the resolution, many delegates used a phone bank in a room at the Convention Center to call their lawmakers. In 12 hours of operation more than 8,000 calls were made. At one point the flood of calls jammed a telephone exchange in Washington.

In an emotional seconding speech in favor of the resolution, Daniel J. O'Connor of New York exhorted the delegates to "raise your voices through local legislators. The hour has come to call for a constitutional amendment." O'Connor drew a roar of approval from the delegates when he said the American people were tired of letting "some coconut, or some stupid crackpot, or even some intellectual jackasses ignorant beyond common sense" desecrate the flag without fear of punishment.

Delegates also received a special "Stand By Our Flag" kit which included bumper stickers, and flag pins.

After the convention's action on the flag amendment resolution, a member of the House Judiciary Committee affirmed the Legion's position that the flag will not be protected by legislation without a constitutional amendment.

Charles G. Douglas, R-N.H., told delegates "The Flag Protection Act of 1989" (H.R.-2978) is a "sham and a shame."

"It's a sham because it doesn't do what you want it to do, and it's a shame because a constitutional amendment would fix what is broken." he said.

He called on delegates, and all Legionnaires, to contact their representatives and

voice their concern that legislation under consideration will not protect the flag.

On the eve of the Convention in Baltimore, National Commander H.F. "Sparky" Gierke presented to Congress the signatures of more than 1 million Americans who support a constitutional amendment to protect the Flag of the United States from physical desecration.

Gierke delivered the petitions during a news conference in the U.S. Capitol. The signatures, gathered by members of The American Legion and the American Legion Auxiliary, were presented to Sens. Robert Dole, R-Kans.; and John Warner, R-Va.; and Reps. Gerald Solomon, R-N.Y.; and Charles Douglas, R-N.H.

"The Supreme Court decision struck a nerve," Gierke said. "In the small town of Cedarburg, Wisconsin, population 9,005, Legionnaires from Post 288 went to the county fair, the shopping center, and door-to-door, and collected 5,173 signatures. Nearly every adult citizen in that town supported a constitutional amendment."

Gierke also released the results of a Gallup Poll that showed that nearly two-thirds of those polled support a constitutional amendment to protect the flag. Seventy percent of those asked believe a flag protection amendment would not place their freedom of speech in jeopardy.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1755 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). Is there objection to charging the time equally? Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3385

Mr. MITCHELL. Mr. President, I ask unanimous consent that amendments numbered 996 through 1001 be considered as having been timely filed for purposes of rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this consent was necessary because the Senate was in recess today when these amendments could have been filed. It does not add amendments to the list that are in order, postcloture.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the reconciliation bill 1 hour after the list of matter to be stricken has been available on the Senate floor and that at that time there be a total of 3 hours for debate remaining on the bill, equally divided and controlled between Senators SASSER and DOMENICI, and that the majority leader be recognized to offer the joint leadership motion to strike matter from the bill on which there will be 1 hour equally divided, and at the expiration or yielding back of time the Senate proceed to vote on the motion without any intervening action, and that any amendment or debatable motion offered thereafter be considered under a time limitation of 30 minutes, and that the control and division of time be in the usual form.

I further ask unanimous consent that after S. 1750 has been read for the third time, the Senate then proceed to the House companion measure, H.R. 3299, that all after the enacting clause be stricken, the text of S. 1750 as amended be substituted in lieu thereof, the bill be read for the third time, and the Senate proceed to vote on passage of the bill without any intervening action or debate.

I further ask unanimous consent that if the leadership motion to strike matter is defeated, this agreement be null and void and there then be a total of 3 hours remaining on S. 1750, equally divided, with all other provisions of the Budget Act in effect.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. DOLE. Reserving the right to object, and I shall not object, in accordance with what we were requesting before the request was entered, this means everything—we talked about striking matter—that is everything, including the Finance Committee?

Mr. MITCHELL. That is correct.

Mr. DOLE. That is the entire load.

Mr. MITCHELL. That is correct. As the distinguished Republican leader and I discussed in advance, the reference in the first sentence of this request, which I now repeat, "1 hour after the listed matter to be stricken has been available on the Senate floor," the reference to the listed matter to be stricken there includes the entire list, including the Finance Committee portion.

As the distinguished Republican leader knows, the Budget Committee portion of the list, which embraces all other committees, is now complete. We are awaiting the final decision by the chairman and ranking member of the Finance Committee with respect to the listed matters within the jurisdiction of the Finance Committee to be stricken. When that is received, that will be incorporated into the document which the Budget Committee has prepared, and when that complete list is ready on the Senate floor, Senators will then have 1 hour to review it. They can determine what is proposed to be stricken. Thereafter, the expiration of that hour, the Senate will resume consideration of the reconciliation bill, and I will be recognized to offer the joint leadership motion to strike that matter.

Mr. DOLE. If the majority leader will yield further, in addition, they are going to get a list of what is in and what is out? I think that is going to be possible.

Mr. MITCHELL. I am advised that the list that will be available will be the list of all matters to be stricken. I know that there are some additional documents which have been prepared by some staff members identifying lists of what will remain, but I understand from the staff those may not be complete at that time. When we say a list of matter to be stricken, it is the complete list of matter to be stricken, inclusive of finance. We will try to have information available at that time as to what remains as well. The list of what remains is not included in the definition of the term which I have stated in this unanimous-consent request.

Mr. DOLE. I say further, it is a substantial amount. We weighed the material before and it was almost 13 pounds. Now it is down to 3 pounds something. So we are striking out 9 pounds. I cannot tell you what is in it, but it is 9 pounds.

Mr. MITCHELL. If the standard of our progress is by weight, then we are making progress.

Mr. DOLE. Some would say we are.

Mr. DOMENICI. Could I ask the distinguished majority leader, that hour will start to run when the list is available on the floor.

Mr. MITCHELL. That is right.

Mr. DOMENICI. Might he tell us now how we will start that 1 hour running? When we have the list, are we to announce it or is the majority leader to announce it?

Mr. MITCHELL. It is my intention that we would do two things: That we would come back and have the Senate resume session, at which time we would announce here that the list is available, and, in addition, we will, through the Cloakrooms of both parties, hotline every office to notify them that the list is ready, so that Senators will be advised both through our coming back in and making a public statement to that effect and through the mechanism of our respective Cloakrooms notifying each office immediately by phone.

Mr. DOMENICI. This is it. I am told that is what was. This is what it looks like now. I think that is progress. I have not read it yet.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 5:15 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 8:30 p.m. when called to order by the Presiding Officer [Mr. ROBB].

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I want to thank the distinguished chairmen and ranking members of the Budget and Finance Committees and their staffs, who have been laboring vigorously to prepare for the Members of the Senate the documents which I am about to describe and which are now available for review by interested Senators. They include a document prepared by the Finance Committee which lists all matters relating to spending provisions in the finance title of this bill that are to be stricken; a document from the Finance Committee that lists all revenue matters which are to be stricken; and a document embracing the jurisdiction of all other committees, which identifies all matters to be stricken in the proposed motion to strike, which will be the order of business when the Senate returns to consideration of this matter.

Mr. President, the unanimous-consent agreement now in force provides for the offering of a motion to strike. The Finance Committee has prepared an amendment that strikes all of their titles and inserts only the agreed-to matter. To accommodate this amendment I ask unanimous consent that an amendment that strikes and inserts be in order, in lieu of the motion to strike previously provided for.

The PRESIDING OFFICER. Is there objection? Without objection, it so ordered.

Mr. MITCHELL. Mr. President, in the previous order it was anticipated that there would be 1 hour before we commenced action on the legislation. In view of the lateness of the hour and the fact that the preparation of the lists proved to be more time consuming than anticipated, it is my view that we should commence action on the bill again at 9, which would be about a half-hour from the time the final lists were ready. Many Senators have been here and reviewed portions of the list that have been available. I apologize for the inconvenience this may cause to Senators but, on the other hand, it will enable us to complete action earlier than otherwise anticipated, or earlier than would otherwise be the case. I have had a number of Senators urging that course of action as well.

Accordingly, Mr. President, I ask unanimous consent that the previous order be modified and that the Senate return to consideration of the reconciliation bill at 9 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, the previous unanimous-consent order is modified in accordance with the majority leader's request.

Mr. MITCHELL. Mr. President, Senators should be aware that the manner of proceeding will be as follows: At 9 we will return to consideration of the reconciliation bill. The order of business then will be a motion to strike, which I will make in behalf of the joint leadership, and which will be subject to 1 hour of debate, equally divided.

Thereafter there will be remaining, if the full 1 hour is consumed, 2 additional hours during which other amendments can be offered if Senators so choose. Any such amendment offered would be subject to a 30-minute time limit, equally divided. I do not now know whether any such amendments will be offered. It is my hope that the motion to strike will prevail and that there will be no further amendments offered. But, of course, Senators are free, particularly after reviewing the results of the motion to strike, to offer such amendments as they choose.

It is our hope that we will be able to proceed expeditiously to completion of action on this bill, there having already been a lengthy delay which I know has caused all Senators great inconvenience.

So, Senators should be prepared, if they have an interest in participating in the debate on the motion to strike, to be present in the Senate at or immediately following 9 p.m., at which time that will occur.

Mr. President, I again want to extend my thanks to the distinguished chairmen and ranking members of the Budget and Finance Committees who, along with their staffs, have been working very earnestly and very hard over the past several hours to advance us to this point.

I will be pleased to yield to the distinguished ranking member of the Finance Committee if he cares to make any additional comment; and the chairman of the Budget Committee and the chairman of the Finance Committee are here as well.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I agree with everything the majority leader said. I wonder if he would mind if I asked him an unrelated question as to what he plans to do about Nicaragua.

Mr. MITCHELL. Mr. President, I will be pleased to respond. Earlier this evening I was asked in behalf of the distinguished Republican leader if I would agree to delay action on that matter until Tuesday; have the cloture vote on Tuesday, and take it up thereafter. I indicated my willingness to do so, and am prepared to do so at this moment, provided the other interested parties agree. It is my understanding, I am not certain of all, but I believe most of those contacted on our side are prepared to do so and we are awaiting confirmation from the Republican leader and the administration that they wish to do that.

I think it would be more convenient for the Senators, preferable for all concerned, if we just completed action on reconciliation tonight and then agreed to a vote on the cloture petition at a time certain—I suggest immediately following the party caucuses on Tuesday—and then dispose of the matter at that time.

Mr. PACKWOOD. So, looking at the clock now, absent Nicaragua, and I will check with the minority leader and see what his position is, we will probably finish at 1 a.m.? By the time we count votes, 1 a.m. on reconciliation, and we may or may not go to Nicaragua, depending upon whether or not the majority leader gets consent to go Tuesday?

Mr. MITCHELL. I think the answer to the first question is, if all the time is used and if several amendments are offered and consume the time, the estimate of the Senator from Oregon of the time of completion of this bill is probably accurate.

But I do not know that we will use all of that time. I do not know, for example, if any Senators are going to request or demand rollcall votes on any of these matters. So it might be less time, depending upon the circumstances and, I assume, what happens to the motion.

Mr. PACKWOOD. I thank the leader.

Mr. MITCHELL. I will be pleased to yield now to the chairman of the Budget Committee if he has any further comment he wishes to make on the subject.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. I thank the distinguished majority leader. I think all that needs to be done now is to allow interested Senators to review these lists and we are ready to get underway at 9 p.m.

Mr. MITCHELL. I thank the Senator.

I am pleased now to ask the distinguished chairman of the Finance Com-

mittee for any further comments he would like to make.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. I would like to say apologies are due no one. What we are witnessing here are some of the most extraordinary efforts I have seen in my years in the Senate. What we are seeing is months and months of effort put together to put this legislation through, and put it together, and then we are seeing cooperation between the leadership of the minority and the majority to see that we move as expeditiously as possible to go ahead and comply with what has to be done on reconciliation. And to see that kind of concurrence and staff work to cut out billions of dollars of items, highly controversial items, is extraordinary indeed, and I congratulate those who participated in the process. I particularly congratulate the majority leader for his efforts from the very beginning to strip this bill.

Mr. ARMSTRONG. Mr. President, if the leader will yield to me.

Mr. MITCHELL. Yes, I yield.

Mr. ARMSTRONG. I would like to recall that on Saturday afternoon of last week, the Senate adjourned and some of us went trudging home with sort of a sense that this was about as tough as it had ever been around here. Yet I recall that as the Senate completed its work on Saturday, we said to our two leaders, Please try again; please see if you can somehow, even though you have been at it for days, if you can go back into a conference and find some way to clean up this bill to be something we can be proud of and can get behind."

I want to acknowledge publicly, as we all have privately, that our two leaders, Senator MITCHELL and Senator DOLE, along with the leaders of the Finance Committee, the Budget Committee, and a handful of others, have really done us a great service. They have vastly improved this legislation.

More to the point, I hope what we are seeing is not just an extraordinary singular event but the start of a new custom, the start of a new spirit around here when it comes to reconciliation.

Earlier in the day, I visited for a moment with the distinguished President pro tempore, who is the author of the so-called Byrd rule which has served us well in the past, and which, in effect, we are amplifying and expanding here today.

I said, "I hope, Mr. BYRD, what we are seeing is a new custom, a new tradition and, in fact, would it not be a good idea if it became a new rule." I commend that thought for the future, that we will not go back to the old ways but either by custom or amending the Senate rules, that we nail this down tight; that the reconciliation process will not in the future be abused as it was almost abused on this occasion.

For tonight we have plenty to do to pass this bill, but I did not want the moment to pass without acknowledging a debt of gratitude to our leaders for getting us out of the fix we were in and raising us to a standard that we can all repair.

Mr. MITCHELL. Mr. President, does the Republican leader wish to comment?

Mr. DOLE. I have an inquiry. Between now and 9 o'clock, can people make statements generally on the bill, not on any amendment, does the majority leader want to wait?

Mr. MITCHELL. That is perfectly fine. If Senators wish to speak, I think Senators should be permitted to speak to the bill to the extent he or she wishes. Does the Senator from Rhode Island wish to address that?

Mr. CHAFEE. I do. Because then when we come back, we will be addressing specific provisions rather than an opportunity to speak generally under the procedure. If we can do that, it is my understanding we are just going out anyway until 9 o'clock.

Mr. SASSER. May I inquire of the majority leader, is it the intention of the majority leader to go out now until 9 o'clock, or is this time to be consumed by Senators speaking on the procedure or speaking on the bill?

Mr. MITCHELL. It was my intention to go out, not having been aware that any Senators wished to address the subject of the bill generally, but if Senators are desirous of doing so, then I would be prepared for the next 15 or 17 minutes to permit such discussion to occur.

Mr. SASSER. May I say to the majority leader that I am prepared to make some opening comments with regard to the action which we are urging upon the Senate. I assume that the distinguished ranking member of the Budget Committee is prepared to do so also. I was under the impression that the majority leader will make the motion to strike.

Mr. MITCHELL. Yes, I will.

Mr. SASSER. In conjunction with the distinguished minority leader. At that time, perhaps the two leaders will have a statement to make, and my statement and that of the distinguished ranking member would follow theirs.

I am willing to follow the procedure that will be the most expeditious here and get us out as soon as possible.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes, I yield.

Mr. DOLE. Apparently there is some waiver authority in the arrangements that I did not know anything about. I have had requests from somebody on this side that we now waive the rural health provisions.

If we are going to start down that road—everybody would like to get everything waived that is not in there. If that is going to be the policy, then we need to have the policy, and if we are going to permit that, I do not see how we are going to have an agreement if people can go around the Budget Committee chairman, the Finance Committee chairman, and ranking members and get a waiver.

I have had a request from Senator GRAMM of Texas to waive the rural health provision. If that is the procedure we are going to follow, then we have to prepare to have a lot of waivers, I assume.

Mr. MITCHELL. I will be pleased to discuss that with the distinguished Republican leader, and I now yield the floor with the understanding that Senators may address the subject. If the chairman and the ranking member of the Budget Committee wish to address the subject of the motion to strike to save time later, why, there is certainly no objection to that on my part.

Mr. President, I will make clear to Senators then that at 9 o'clock, I will seek recognition for the purpose of filing the motion to strike, and the chairman or ranking member, and others who may wish to do so can discuss that and other aspects of the bill.

Mr. DOMENICI. I assume I am in charge on my side and Senator SASSER is on the other side? I think a couple of Senators on my side want to speak for a few moments. We want to be fair and give some time to their side before 9 o'clock. Would the Senator like 3 or 4 minutes?

Mr. CHAFEE. I am going to ask for 5 minutes. It seems to me that the distinguished chairman of the Budget Committee and the ranking member will obviously have a chance to address the Chamber when 9 o'clock comes, as I understand it.

Mr. DOMENICI. I yield 5 minutes to the Senator from Rhode Island on my time on this side, and then it will be the other side's turn if that is what the Senator likes. Does the Senator prefer to go first?

Mr. SASSER. I prefer to speak after the motion to strike is laid down.

Mr. DOMENICI. Would the Senator like to split the time between now and 9 o'clock, half on our side and half on his?

Mr. SASSER. If somebody wants to speak over here. If I may inquire of the distinguished ranking member, are we going to speak generally on the procedure here?

Mr. CHAFEE. That is what I was going to do.

Mr. DOMENICI. I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I just wish to say that in the Senate, occasionally all Senators do join together in an effort to rise above what can be

seen as self-interest and to take the high road. I believe that that is what we are on the way to doing this evening.

The amendment before us will strike any provision in the budget reconciliation package which does not bring in additional revenues or does not reduce spending. Others have explained and will explain this amendment in considerable detail, so I will not take up the body's time to do that now, but I do want to make a couple of points that I believe are important.

What we are doing tonight is right and in the interest of everyone here. Many of us have worked hard over the past few months to include in the reconciliation bill matters that are of deep concern to each of us. I speak as one of those Members.

There are many provisions in the Environment and Public Works portion in the Finance Committee packages about which I feel strongly. I admit to having some fear as to the ultimate fate of those provisions if they are not included here. But the Finance Committee, I believe, for too long has accomplished too much of its business each year through the reconciliation process. I think that is unfair to the majority of the Members in the Senate. It is always unfair to the public, I believe, because our policy decisions may not always be the best, but when they are included in the reconciliation measure, of course, it is accompanied by a limited time and all of the provisions that are applied to so much of the debate around here are not there.

Some have lamented that stripping down of this package signals the death of many important policy initiatives. I do not agree. In fact, I believe the opposite might be true. I am optimistic that our actions today are the first step toward a better tax and a better health policy, for example. Those are issues that we deal with in the Finance Committee, and I hope they will lead us as a committee to begin to act as I believe the committee should, by carefully considering and passing legislative initiatives separately and by allowing the full Senate the opportunity to consider those initiatives in a broad and considerate and deliberative manner.

I am particularly optimistic about the health care policy issues and the implications about the actions we are taking tonight. In the United States, we spend more than $500 billion a year on health care. That is $1½ billion every single day of the year, more than any other industrialized country in the world, as a percentage of GNP at a cost of a far greater amount in actual dollars.

Yet dissatisfaction with this system, our health care system, is growing by leaps and bounds. There are 36 million Americans with no health care insurance, and many of them are children.

The cost of health care is leading to labor problems. Companies are finding it difficult to keep up with the increases in the cost of insurance all across our Nation. If we act today to strip the measure of these health policies, indirectly it will be assisting them because I believe all of us will now begin to act on individual proposals with the careful attention and thoughtful views of each Member. With our actions tonight, we will affirm the principles for which the Senate stands. No longer will issues of tremendous importance to the Nation be hidden under the protective coat of reconciliation. The protections afforded reconciliation measures on the Senate floor supercede all other rules of the Senate. They prevent us from acting as a truly deliberative body.

So, Mr. President, I believe we should go forward with the course set this evening by the distinguished majority leader and our leader on the Republican side. It may not be easy to swallow what we are being asked to give up in this bill. Every one of us is giving up some measure about which we deeply care. But when the dust settles, I believe we will be proud of what we have done. I am optimistic that we will restore the Senate to its role as the protector of those with minority views.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I wish to associate myself with the remarks that have just been made by Senator CHAFEE. The fact is that this Senator and others are giving up many important pieces of legislation we had hoped could be attached to this particular measure, but that is not possible given the circumstances which now confront the Senate and with the sequester coming up on Monday next. I am not happy with the whole budget process, but we voted this measure out of the Budget Committee, of which I am a member, the other day. I voted for it only with the understanding that I reserved the right to make my final determination on the floor of the Senate.

It seems to me, Mr. President, as difficult as this is going to be for all of us, it may set the record straight; it may send the message loudly and clearly to each Member of this body, each committee and subcommittee of the Senate, that we have drifted and drifted and drifted to the point that we come down to only one or two massive bills each year and we begin hanging all kinds of ornaments on that massive bill, not unlike the manner in which you might hang ornaments on a Christmas tree.

That is not, in my opinion, the way the Senate has traditionally enacted legislation. It seems to me, Mr. President, as difficult as this is going to be tonight, it has to be done. I hope that if nothing else comes out of this, we will realize that the reconciliation structure is supposed to be a means to restrict spending. This bill does not restrict spending, unfortunately, as much as I think it should. Therefore, I suspect, with some shortcomings and with some grave reservations that I have, I will be placed essentially in the position of most of the Members of this body that we must move ahead with this piece of legislation, as bad and unacceptable as it is, as far as deficit reduction is concerned.

Another way to put that, Mr. President, would be as bad as this is, it is still better than nothing. Therefore, I hope that we will move ahead with the motion to kill most or all of the extraneous measures on this piece of legislation and then quickly dispose of any amendments that are offered thereafter.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. Mr. President, the distinguished majority leader is not on the floor at this time. It is my understanding that he intends to offer the motion to strike at 9 o'clock. So I would suggest the absence of a quorum to be charged equally against both sides.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9 o'clock having arrived, the Senate will resume consideration of S. 1750, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1750) entitled the "Omnibus Budget Reconciliation Act of 1989".

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Debate on the bill is limited to 3 hours to be controlled by the Senator from Tennessee [Mr. SASSER] and the Senator from New Mexico [Mr. DOMENICI].

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

AMENDMENT NO. 1004

(Purpose: To strike all matter from the bill that does not reduce the deficit)

Mr. MITCHELL. Mr. President, for myself, Senator DOLE, Senator SASSER, Senator DOMENICI, Senator BYRD, Senator BENTSEN, and Senator PACKWOOD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL), for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD, Mr. BENTSEN, and Mr. PACKWOOD, proposes an amendment numbered 1004.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. Mr. President, the purpose and effect of this amendment may be summed up in a single sentence. The purpose of the reconciliation process is to reduce the deficit. I repeat, the purpose of the reconciliation process is to reduce the deficit.

The amendment is lengthy, consisting of many pages, words, and numbers, but it has that fundamental objective. As I said when I addressed the Senate a week ago Thursday, the reconciliation process has in recent years gone awry. The special procedures included in the Budget Act as a way of facilitating deficit reduction items became a magnet to other legislation which is unrelated to the objective of reducing the deficit.

No useful purpose will be served by attempting to trace the history of that development. We are all familiar with it. We have all been participants in it. But it is time now to restore the reconciliation process to its original objective. That is what this amendment does. It asks sacrifice of every Senator. It asks discipline of every Senator. It asks that the regular legislative process be restored to the dignity it once had.

I urge all Senators to join in supporting this amendment. I urge all Senators to join in helping us engage in meaningful action on the deficit. I urge all Senators to join in opposing any effort to restore provisions that may be stricken by this amendment.

We can act decisively, we can act responsibly, we can exhibit discipline, and we can exhibit restraint if we so choose.

That opportunity is now before us. I urge every Senator to participate in taking up that challenge.

I hope every Senator will support this amendment. I encourage every Senator to support this amendment. I urge every Senator to support this amendment.

Mr. President, I am now pleased to yield to the distinguished Republican leader.

The PRESIDING OFFICER (Mr. BRYAN). The Republican leader is recognized.

Mr. DOLE. Mr. President, first I thank the majority leader, and I thank all my colleagues.

Mr. President, we have been doing a lot of negotiating. I guess negotiating—we had a lot of meetings, had a lot of discussions, marched up and down, backward, forward, and I guess the longer we had negotiations the clearer it became to many people that we had an opportunity here that we should not let pass.

The bottom line, as I see it, is discipline. Do we have the will to be responsible, to really reduce the Federal deficit or do we undercut the process by piling on important programs, taxes, and other legislative goodies that cost the taxpayers millions in the name of deficit reduction? Many of these provisions have never even had a hearing, never had a hearing, and not one witness from anyplace came in to testify for or against most of the provisions.

I do not believe the American people share the view that maybe some of us do on the floor. I will confess nice little things I have in the bill are gone. We have heard a lot of talk lately about good government, and we are all for good government my Republican colleagues and my Democratic colleagues. I say as far as my Republican colleagues are concerned I think it was their commitment and conviction that helped lead us to this moment, and to this agreement. I will tell you precisely what happened.

We had a caucus yesterday afternoon about 1:30. At that time all the focus had been on capital gains, and it is a very important provision. I will say more about that in a moment.

But I must say many of my colleagues said unless we can clean up the reconciliation bill they were going to find it very difficult to support any capital gains or anything else.

So they in affect directed the leader to have the staff put together something that went beyond the Byrd rule; something that extended—I guess you would call it an extension of the Byrd rule. So I asked the staff, the budget staff, to put together a package because the message I had from nearly everyone in the room is they really wanted to strip down the reconciliation package—not half way, not part of the way, but all of the way.

So while some wanted good government, some wanted better government, and that is what our caucuses I think on both sides of the aisle have been telling us, the leaders, the past couple of days.

So I congratulate Senator DOMENICI, Senator ARMSTRONG, Senator PACKWOOD, and many others on this side of the aisle for their leadership during this tough challenge. And I am certain accolades could go to their counterparts on the other side, as well as to the distinguished majority leader for his cooperation and communication. His door was always open. He demonstrated that, above all, the institution must work, and it is working.

I think the distinguished President pro tempore, Senator BYRD, said it probably best on Sunday when he said the only reason we really exist as an institution is for a couple of reasons. First, we have the right to amend, and we have the right to debate. The reconciliation process was, in effect, destroying us as an institution. So you think about that over the weekend. It makes a lot of sense.

I have no quarrel with the House. They have different rules. They are a different body. I am very proud to have served in the House of Representatives.

Let me also say there are many worthwhile items being stripped out of the bill. A lot of the materials in the Senate program, that 12-pound, 15-ounce package there, were good programs. They were good for Kansas, good for America. But I guess in the final analysis we all decided this was not the place for all of those good programs.

For example, there is a rural health care package, which the distinguished chairman of the Finance Committee and this Senator and others have worked hard on to design. I have already had a request—can we not waive that, can we not sort of get that in there. Nobody will ever know the difference. Just put it in there.

You cannot do that. As I understand the agreement, there are critical and long overdue reforms in the physician reimbursement programs under Medicare. Additionally, the hard-pressed independent marginal oil producers were given relief by this bill. I guess the more important thing is how do we return to the normal legislative process, which has gotten out of hand the past 8 years, and which everyone in this body has been probably guilty of to some extent in some areas. Certainly this Senator has, and I am certain others have.

I believe the proposal such as the rural health care package and others are meritorious in their own right and can withstand the test of the normal legislative process, and they should. Reducing the deficit is a priority; the deficit keeps climbing, and we have not had much success in getting it down. I am not certain everybody in America understands all the inside baseball that goes on around here, whether they understand reconcilia-

tion and conference committees and motions to strike, but I do believe the American people recognize responsibility when they see it, and tonight they are seeing responsibility in action.

That is the whole purpose of this amendment. The authors will oppose any effort to add back individual provisions, and I certainly urge our colleagues to support those efforts. That does not mean that a provision that some Senator might have—and I will speak to this side of the aisle—will not be picked up in another revenue bill or in a separate piece of legislation. We are not here to pass judgment on what Senators may have in mind as far as legislation is concerned. On this package, it is going to be a reconciliation bill in the finest sense of the word.

Finally, let me say a word about capital gains. Let me be very clear; the President of the United States and his leader in the Senate have not retreated 1 inch in support of this critical tax reform proposal, nor has anything changed its status in this Chamber. The votes are here, I believe, the majority; we think we have the votes, and we think the leadership on the other side has the process. The process means 60 votes. We do not have 60. We have well over 50. Capital gains does have a clear majority, a clear bipartisan majority, and I believe it is an item that is good for America, and I believe Republicans and Democrats will work together to get capital gains reform this year.

We do not have today, enough votes, as I have indicated. We cannot beat the majority on procedural votes, and many colleagues on the other side, for reasons that are probably very good, have decided to stick with the leadership on procedural votes. I have learned how things work here. If you are in the majority, you control pretty much the flow of legislation and what happens.

I do believe we have come to understand that we have a majority, so we are putting aside capital gains today, but I can promise my colleagues on both sides of the aisle who support the effort, and the President, that we will be back ready to win, ready to let the majority prevail on this matter at the earliest opportunity. There are going to be a number of opportunities.

Finally, I say again that I commend the leadership on both sides, particularly the budget leadership and the Finance Committee and others who have a rather active role to play in this entire debate. I believe we have made the right decision. No one could predict precisely what may happen on the House side. It seems to me that if we stick together, as we are doing here, in the conference, that we can have a great impact on what may happen. I think it would be the intent of the distinguished ranking Republican on the Budget Committee to move to instruct the conferees at the appropriate time.

I thank the Chair.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chairman recognizes the Senator from Tennessee [Mr. SASSER] and advises he controls 27 minutes.

Mr. SASSER. Mr. President, with this amendment we are firing a shot, I believe, for fiscal responsibility, a shot that I think will be heard throughout the corridors of this Congress. I believe it will be heard at the other end of Pennsylvania Avenue, and perhaps may even be heard as far away as Wall Street, which this evening, I think, is in dire need of some good news. With this amendment, we are putting a deficit reduction bill back in the category of being a deficit reduction bill. It is an amendment that sets this body's priorities straight.

What we are seeking to do is to remove from this reconciliation vehicle, all extraneous matter, everything that does not either reduce Federal spending or raise Federal revenues will be stricken. That is the purpose of a reconciliation bill. Extraneous matters have been accumulating on these reconciliation bills now for a number of years, to the point that they are on the verge of sinking the reconciliation bill, and in so doing, defeating the budget process.

At some point in the not too distant future, if we continue down the path that we have been going, the Parliamentarian, on a point of order, will be forced to rule that a so-called reconciliation bill is not a reconcilation bill at all, that it is simply a vehicle for so much extraneous matter that deficit reduction has become a subordinate and wholly incidential purpose for which a so-called reconciliation bill will be offered in the future. I do not say that to impugn the worth of many extraneous matters on this reconciliation bill.

We heard a lot of debate yesterday. It was pointed out by some of our colleagues, in a somewhat disparaging way, that this is a vehicle for looking after the interest of kiwi fruit farmers or those who raised a certain type of vidalia onion.

I want to say to my colleagues tonight, there are an awful lot of very worhty measures being carried by this reconciliation bill, matters that are critical and crucial in importance to the environment, like doing something about chlorofluorocarbons that are poisoning the very globe on which we live; an important provision for doing something about wetlands that are being destroyed in Louisiana; and authorization for essential air services, rural health provisions, Medicare provisions. It goes on and on.

So there are many worthy things on this reconciliation bill, matters that I would vote for, if they were not being presented on this particular bill, indeed, matters that I would speak for on the floor of this Senate. But when we started out yesterday, we had a reconciliation bill that consisted of almost 1,400 pages, with over 250 items that were purely extraneous, and that reconciliation document should have consisted, Mr. President, of only 100 pages.

I want to commend the majority leader and Senator BENTSEN on our side of the aisle, who have worked so hard to strip this bill clean, and also the distinguished President pro tempore of the U.S. Senate, Senator BYRD. Last Thursday, when the majority leader, Mr. MITCHELL, offered the idea of stripping this bill clean on behalf of myself and Senator BENTSEN, we did so on the hope that there would be a majority here in the U.S. Senate who would take a stand on behalf of the integrity of the process.

What we are seeing right now, I say to my colleagues is something of a phenomenon. After months and months of work in the various committees of the U.S. Senate producing worthy legislation that ended up on this reconciliation instrument, we are seeing these same committees come forward and voluntarily striking this extraneous matter. I think in the interest of fiscal resonsibility and in the interest of a sound budget process and, I might say, in the interest of safeguarding and refurbishing the institution of the U.S. Senate. That ought to be grounds for celebration if we can do that here this evening on a bipartisan basis.

I would venture to say that most Americans who even heard the phrase "budget reconciliation" over the past few days or weeks, think budget reconciliation stands for some kind of forum for discussing the capital gains tax. That is how it has been played out in the media and that is how I initially think it was conceived in this Chamber.

But the U.S. Senate, I think this evening, Mr. President, is acting in the finest traditions of this body. I commend the distinguished majority leader, the distinguished President pro tempore, Senator BENTSEN, those on my side of the aisle who have worked so long and hard on this bill. I commend our distinguished minority leader, and certainly this could not have occurred this evening without the cooperation, suggestions, and energy of the distinguished ranking member of the Budget Committee from New Mexico, Mr. DOMENICI.

It is my deep hope that this evening those in other locations in this city who may have seen budget reconciliations in another way and those who might have sought to subordinate the deficit to another agenda will think long and hard about this bipartisan

action that has been taken this evening by the U.S. Senate.

I think it is fair to say that the House of Representatives needs to understand that we must work toward a clean bill in conference. That is absolutely imperative if we are going to minimize the negative impact of the sequester that is looming over us.

Let me make this point here, and I think it is very important. We are estimating that this totally stripped down reconciliation vehicle will produce some $50 billion in deficit reduction over the next 5 years. That compares to the $29 billion, we were going to get out of the 1,350-page document that we began with yesterday morning. In short, this action, I think, moves us decisively to bring this budget more nearly into balance. It moves us decisively toward our Gramm-Rudman targets both for this year and in the years ahead.

I think most importantly, it moves us decisively toward the kind of fiscal soundness and fiscal order that we must have if we are to maintain the economic strength of this Nation of ours.

Mr. President, I urge all of our colleagues to support this motion to strike that is before us this evening, and I yield now to the distinguished ranking member of the Budget Committee.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico and informs him that he has 21 minutes under his control.

Mr. DOMENICI. I thank the Chair.

Mr. President, I yield myself 5 minutes.

Let me first say to Members on our side that I cannot thank them all this evening by name. There are only a few present but there are so many who rose to the occasion and caused this to happen. Clearly, a frustration has begun to set in about this process.

There are a few things about the U.S. Senate that people understand to be very, very significant. One is that you have the right, a rather broad right, the most significant right, among all the parliamentary bodies in the world to amend freely on the floor. The other is the right to debate and to filibuster.

When the Budget Act was drafted, the reconciliation procedure was crafted very carefully. It was intended to be used rather carefully because, in essence, Mr. President, it vitiated those two significant characteristics of this place that many have grown to respect and admire. Some think it is a marvelous institution of democracy, and if you lose those two qualities, you just about turn this U.S. Senate into the U.S. House of Representatives or other parliamentary body.

Over the last few days, much has been said about the failure of our budget process. I call everyone's attention to the fact that Budget Act provides for a motion to strike. It was there from the very beginning on reconciliation.

I say to my good friend, the chairman of the Appropriations Committee, the Byrd rule came along to try to minimize what we put in reconciliation. But the motion to strike was there from the beginning. The process did not fail. We failed. Today, we do not fail, because processes without the will are useless. Today, we are using a process and hopefully in about 35 minutes, we will exhibit our will to use the process.

I say to anyone here who is critical of the evolution of reconciliation and the budget process, the motion to strike was there last year, the year before, the year before, and since we started. But only this week, did it finally dawn on large numbers of U.S. Senators that if we did not stop this, there would be no freestanding revenue measures to vote on in this place. There would be no authorization bills to speak of, no Medicare reform. We can go on for every important issue. Who will bring them to the floor if they can wait until there is a reconciliation instruction and include everything and anything you desire in a committee.

Mr. President, that is the rule of the U.S. House of Representatives. If the House Rules Committee clears a bill, it makes no difference to them whether it is on reconciliation or freestanding. They set the rules for debate in that institution then and there. We do not have that. The only rules committee we have is the floor of the U.S. Senate and a relatively new one called reconciliation.

Today we have met the enemy. As Pogo says "We met the enemy and he is us." We are going to use the process available under the Budget Act to strip from this bill not only those matters which the Parliamentarian would call extraneous but also those which were never intended because they are not pure deficit reduction matters. Thus, they are broader than the Byrd rule, irrelevant and extraneous, and we are going to strike them.

Mr. President, let me suggest that there are a couple of other reasons we ought to do this. There are some who say let the sequester fall. Come the 16th it will start. There are some who are saying, "We hope you do not do anything." I am not one of those. I think the planned train wreck of the Gramm-Rudman-Hollings law was there to be avoided. It was there to be avoided by rational decisionmaking and I think we ought to avoid it by rational legislation.

If we go to conference with this measure, and the House measure which is much beyond this 13-pound bill, it will probably take 3 to 7, maybe 8 weeks in conference. I say to those who are here we have never had a reconciliation come out of conference sooner than 4 weeks except one time and it was a very, very small one. Most took 7 and 8 and 9 weeks.

I hope the U.S. House of Representatives wants to get rid of the sequester as badly as we do. If they do, clearly that conference will be a short one. They will understand that they can run all those measures through their Rules Committee. They should seriously consider a stripped down bill that will knock out the sequester next week. Then we can go about our business about passing the appropriations bills and get on with the business of the Senate.

Mr. President, as far as capital gains, the Senator from New Mexico believes this is the best approach to assure capital gains and assure an up-or-down vote in this Senate. Clearly sooner than later, because of our action on this measure, we will need a revenue measure on this floor. We need to extend the research and development tax credits and many other things, so we need a tax bill.

I am very hopeful we will get one. That will be good for the Senate. It will be good for our processes. If we need Medicare and Medicaid reform, it will be good to have them on the floor of the Senate, not in the body of a 2,000- or 3,000-page bill.

I believe with that, plus short-term and long-term debt extension, the will of Senate is going to be worked on capital gains. It could not on this bill because of the complexities of the process and the leadership of the majority.

I close by saying I hope none of the Senators who have provisions in this bill that are being stricken think that the Senator from New Mexico is against them, against their provision. I hope we are not being arbitrary. I think we have tried our very best. I think the distinguished chairman and ranking member of Finance have been extremely fair in their bill as has everyone else. I think those who have matters that are important will get their chance in due course. We may have an awful lot more legislation on the floor, but I think that is the way it ought to be.

With that, I wish to thank the chairman of the Finance Committee and the ranking member, and obviously the chairman of the Budget Committee, and the two leaders. We are doing something significant tonight for the U.S. Senate, but most of all for the people of this country we are getting $14 billion worth of deficit reduction in the first year, 1990, and, I say to my friend from Oregon, $56 billion over 4 years. That is what this bill does.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, I have discussed this with the managers and the distinguished Republican leader. So far as we know, no Senator has requested a rollcall vote on this amendment. Unless some Senator does so request, it is my intention that we will act on this amendment by voice vote. If any Senator has an amendment he or she wishes to offer they should be on notice to be present to offer it soon, because if there are no further amendments after this, the time will be yielded back and we will proceed to a final vote on reconciliation by rollcall followed immediately thereafter by a rollcall vote on the cloture motion on the Nicaragua Elections Act. That is our plan as of this time.

We hope to be able to complete action on this amendment by voice vote, then proceed to any others which may be offered. If there are none to be offered, then proceed to final passage by rollcall vote followed immediately by a rollcall vote on the cloture motion.

Mr. DOMENICI. Might I say to the majority leader, I will confirm this with Senator DOLE. He told me a minute ago to the contrary on the rollcall vote on this amendment, unless he has just talked to you.

We are OK.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield such time on the amendment as the Senator from Texas may consume.

Mr. LEAHY. Will the Senator withhold? I just want to make sure I understood this on Nicaragua. Did the majority leader say that we would or would not go forward on Nicaragua tonight?

Mr. MITCHELL. We will go forward tonight.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Thank you, Mr. President.

Mr. President, let me join with the others in what I think is an extraordinary effort on the part of the leadership on both sides of the aisle in moving forward to strip down this reconciliation bill.

When you are chairman of a committee, you have the responsibility to work within the rules that are given to you. That is what we did in the Finance Committee.

But I have long disagreed with the trend that I have seen taking place with respect to reconciliation and the limitations on debate and amendments that are a part of that process. So I am supportive of this effort. But let no one think that we do not have a job left after tonight is over.

Extraordinary change? Let me show you how extraordinary it is. Here is a table displaying the spending items, these items amount to millions of dollars in spending. These were the spending items the Finance Committee included in its reconciliation bill.

Now spending items on reconciliation can be listed on one page.

Lest anyone think that there is not a job still to be done for the people of this country, let me tell you about some of the things that were struck. We deleted a rural health package, what I think is the finest piece of legislation for rural health care that we have had before this body in many years. Rural hospitals are closing around the country, and they need our help.

Major improvements in health care coverage of pregnant women, infants and children were also struck. Fundamental reform in the way physicians are paid under the Medicare Program—struck. Months and months of work went into those reforms.

Extensive improvements in mental health benefits under the Medicare Program and numerous income security provisions designed to address the needs of disabled children and children in foster care were also struck.

Provisions that would let people on Social Security earn more money without suffering a deduction in their Social Security benefits under the Finance Committee approved bill, to retirees who work could earn about $5,500 more than they would be able to earn under current law.

Those are some of the major provisions that we have struck.

We are striking the IRA. I think expanding and restoring the IRA is terribly important to the average family in America to take care of their retirement, to buy that first home that is becoming more difficult for young couples all the time, and to take care of that college education that was struck.

I understand the controversy with the capital gains. And I am one who has supported capital gains time and time again in the past. But I must tell you I felt a lot more enthusiasm for lower capital gains taxes when the top rate was 90 percent and then 70 percent and then 50 percent. Then we agreed to cut the top rate for people earning the most money all the way down to 28 percent. And part of the argument by the Reagan administration was that we could afford to cut that tax rate on ordinary income because we would save $22 billion over 5 years by increasing the rate on capital gains income from 20 to 28 percent. And then we get the interesting figures from this administration that we will save $16 billion over 5 years if we will bring it down from 28 percent to 15 percent. They still haven't explained that one to me.

I am talking about some important things, too, on the revenue loser side. I am talking about repeal of section 89 that was passed by a vote of 99 to zip, 99 to 0, in this body. I am talking about mortgage revenue bonds, that had 86 cosponsors; low-income housing credits, that had 72 cosponsors; extension of the research and development credit, that had 53 cosponsors; and extension of the targeted jobs credit with 36 cosponsors. Those are some of the things we are going to have to come back to in this body and that is what I hope we can do early on in a revenue measure. And the House is pretty sparing in the number of revenue measures that it allows us.

Now let me talk about the other body just for a moment, because one of the problems we face is going to conference with the House. Will our House colleagues understand what we have done and the steps we have taken to try to get back to the proper use of reconciliation? Will they give us credit for trying to make real progress in reducing the deficit or will they sit there with all the House approved provisions as bargaining chips while we sit there with none?

Well, I must tell you, I am much encouraged by a statement made today by the chairman of the Ways and Means Committee.

It says:

I commend the Senate for passing a clean budget reconciliation bill. Three months ago, on July 12, I urged this exact course of action in the House. Unfortunately, in July and again in September, the Administration rejected a clean reconciliation bill, referring to pursue a misguided capital gains cut for the wealthiest Americans.

In July and again in September, I predicted that to go beyond a clean reconciliation bill invited deep divisions on controversial and expensive issues such as capital gains, catastrophic health insurance, child care and section 89. To my regret but not my surprise, those divisions materialized in the Ways and Means Committee and the floor of the House of Representatives. The reconciliation bill—a bill whose purpose is to reduce the budget deficit, however marginally—turned into a political football that actually will increase the deficit in a few short years. It was for this reason that I voted against the bill both in committee and on the House floor.

Although I am encouraged by the Senate action, it is uncertain whether a clean bill can be achieved in the upcoming conference with the Senate. The bill passed by the Senate appears to reflect only an "institutional" agreement within the United States Senate. The position of the Administration and the House Republicans is unknown. Even Administration support for a "clean" reconciliation bill is largely irrelevant, particularly to House Republicans, as we learned when the House passed, over the Administration's silent objection, amendments relating to catastrophic health insurance and section 89.

In addition, House conferees would not be prepared under any circumstances to accept a "clean" bill whose provisions are devised and defined by the Senate alone. Important differences will remain over the basic $5.3 billion revenue package and the $2.7 billion

Medicare savings—differences that can only be resolved in a conference with the Senate.

Nevertheless, I am hopeful that a truly clean bill can be achieved through the normal give and take in the upcoming conference with the Senate. As desirable as the result would be, however, I will not be party to any "side deals" or private understandings regarding the debt ceiling or a subsequent legislative "vehicle." In the face of a $130 billion deficit, I remain committed only to the achievement of responsible and real deficit reduction. I have no interest in the political games and avoidance of responsibility that have marked the Administration's budget policies up to now.

He goes on to say how much he is encouraged by the Senate action and how much he hopes that the Senate's action can assist the other body in bringing about real deficit reduction. Chairman ROSTENKOWSKI's encouraging response, and I know he is sincere in his statement that he is going to do his best to try to bring about a deficit reduction bill.

But the job that we face in trying to see that we preserve the reconciliation process in conference will be formidible.

Let me make another point. I have heard some comments, too, about how many amendments are included in the measure reported by the Finance Committee.

If we use the gross numbers there, the bill raises $37 billion and spends $29 billion over 5 years. Those are the figures that have been cited. Let us put that in context.

The Joint Tax Committee did revenue estimates of the tax part of the fiscal year 1990 budget that the Bush administration submitted in February of this year. The Joint Tax Committee's estimates reject the proposition that the capital gains tax cut is a big long-term money gainer. And once we go through those estimates of the Joint Tax Committee and count the outlay savings in the same way the Finance Committee did, the Bush tax proposal raises $34.4 billion over 5 years in taxes, but spends $52.1 billion on new tax breaks.

Consider that, and then they have lost $17.7 billion over 5 years.

When I compare that with the Finance Committee's product before we stripped this bill, a gain of over $8 billion over 5 years, the Finance Committee did not do a bad job. So I think it is important that we put these things in perspective, to see what we will be facing in the weeks ahead as we review these things and present them to this body, which I am committed to try to do in as short a time as we can reasonably do it.

Once again, an incredible transformation has taken place through the contribution of Senators like the chairman of the Appropriations Committee, the distinguished Senator from West Virginia; and the chairman of the Budget Committee, the Senator from Tennessee; and the ranking minority member, Senator DOMENICI from New Mexico; and the majority and minority leaders. I think this is as dramatic a change as I have seen in a piece of legislation since I have been in this body. I hope we can put it through and accomplish its objectives.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have three Senators on my side who desire to speak: Senator GORTON for 3 minutes, Senator RUDMAN for 5 minutes, and Senator COHEN for 3 minutes. And I believe that is about all the time I have.

In whatever order the Chair would recognize them, I would yield them that much time at this point.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I join with my colleagues in congratulating our distinguished leaders and the chairmen and ranking minority members of the Budget and Finance Committees, together with the other Members of the U.S. Senate who, this evening, have joined together to cause the U.S. Senate to deliberate and to work as it ought to work. In fact, it is deliberating and working in the way it ought to work in two distinct ways.

First, we are doing what we ought to do. As the distinguished majority leader said earlier during the course of this debate, the purpose of a reconciliation bill is to reduce the budget deficit. It is certainly clear this bill, if this amendment is passed, will do so only modestly. It is certainly clear our task next year will be even more difficult than it has been this year.

But it is also true that this reconciliation bill, if this amendment passes, will reduce the budget deficit, consistent with the budget resolution which we passed earlier this year and with the budget agreement involving the White House and both Houses of Congress. It, therefore, represents both responsibility and progress.

Second, and equally important, by this course of action this evening we are not doing what we ought not to do. The distinguished minority leader pointed out that many of the extraneous elements in this resolution before this amendment include good legislation.

From a brief review of that legislation, I know this Senator agrees with well over half of those pieces of substantive legislation. But all of them, whether this Senator agrees with them or not, share one feature in common: They have not been debated on the floor of the Senate and cannot be effectively debated as a part of a reconciliation bill. They cannot effectively be amended as a part of a reconciliation bill.

Thus, their inclusion, whether they are good, bad, or indifferent, would utterly destroy the very purpose of the Senate of the United States, as so eloquently described by the President pro tempore last Sunday. It is absolutely essential that, even with this legislation, we have the right to debate and the right to amend.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORTON. I urge we agree to the amendment and pass the bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. RUDMAN. Mr. President, let me add to what has been said very briefly about the majority leader, the Republican leader, and the leadership of the U.S. Senate who participated in bringing this reconciliation bill to us tonight in the form in which it was presented. It is, really, a monumental achievement, as we look back over the several years. It was aided greatly by the foresight of the distinguished President pro tempore, who promulgated the Byrd rule.

I would say it was informally advanced beyond the Byrd rule by what we have now adopted. I guess I would call it an informal Dole-Mitchell-Sasser - Domenici - Packwood - Bentsen amendment which simply said: If it does not raise revenue or save money, we do not want it in here.

I wish the distinguished President pro tempore might offer that as a formal amendment. It would save us a lot of grief in the coming years.

Mr. President, there ought to be a lesson in what happened here today and yesterday and last week. This all started when the distinguished majority leader suggested that this had gone too far. The Republican leader that night, and others, joined in that and has brought us to here.

It has taken too long. Here we are, several days into the new fiscal year, still not having set the budget process in concrete. We must go to the House of Representatives in conference if this passes. We have an interesting situation from a bargaining point of view. We have nothing to bargain with, which is the way it was planned.

We are going there with a clean reconciliation bill and we are simply saying: If you do not want that sequester to continue beyond next Monday or Tuesday or Wednesday, either join us, or it will continue to run.

But we should not have taken so long to get there. And we ought to have learned something collectively, all of us here. That is, and I have heard the distinguished President pro tempore say this in meetings of our committee: We spend far too much time on a process which was designed to be somewhat more efficient than it is. We wait until the very end of the

year to get these appropriations bills passed, if at all. Many have yet to be conferenced.

The net result of that, Mr. President, is what the distinguished President pro tempore said on Sunday about this body, which has the ability to debate and amend and consider legislation. I will tell my colleagues, if there is a great disappointment to this Senator in my 8 years here, it is that some of the most important issues we can discuss we never have the chance to debate and amend on this floor because we are totally immersed in this budget process from January to December; maybe this year shorter.

So I hope, Mr. President, we might learn from what we did this year, that next year we might come to an early agreement with the administration, if that is possible; we might move in a manner unlike past years, and, hopefully, have an opportunity to debate other legislation which is of vast importance.

The distinguished chairman of the Finance Committee ticked off a whole series of legislation which needs serious attention on the floor. We cannot give it that attention if we spend our entire lives debating appropriations, budgets, and reconciliation.

I hope maybe this year we have finally learned the lesson. I am not sure that we have, but I hope we have.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator from Tennessee yield for a question?

Mr. SASSER. Yes, I will yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, as the distinguished Senator from New Hampshire just pointed out, the House has many extraneous matters in their bill. One relates to a matter within the jurisdiction of my committee. It involves the Tongass National Forest. It is a vitally important bill, one of the top matters on the environmental list of virtually every environmental organization in the United States.

My question is, What is the advice of the distinguished chairman of the Budget Committee?

Are we to understand that there will be no bargaining with respect to House measures which are nongermane, which are extraneous?

Mr. SASSER. I say to my friend from Louisiana, that will have to be determined once conferees are appointed and once we enter into a conference with the House of Representatives. We received some encouragement that the House themselves may engage in some ex post facto stripping of their own reconciliation bill.

I say to my friend from Louisiana that this process has proceeded with the majority leader, Senator MITCHELL, conferring on a daily basis with the Speaker of the House of Representatives, Mr. FOLEY. I think the distinguished Senator from Louisiana was off the floor a moment ago when the Senator from Texas read into the RECORD a recent comment, I think this afternoon, of the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, commending the Senate for stripping our bill and indicating that perhaps there would be some movement on the House side in that regard.

To sum it up, I would say to my friend from Louisiana, we are going to have to proceed as we can and just see what occurs.

Mr. JOHNSTON. I ask the question in this sense: We can go to conference and bargain, as we usually do, and I have a lot of sympathy for a lot of the provisions in the House bill, I want to tell the Senator. But I do not want to go in there and take a tough line and say no bargain on this thing and be an ogre in the environmental community when I believe that they have a lot of justice on their side. On the other hand, I do not want to waste a lot of time if the Senate is going to make up its mind that we are really not going to go with these kinds of amendments.

I think we ought to decide here tonight, and the distinguished minority leader just gave me some language which someone is going to put on to instruct, nonbinding language. I would like an expression from the key leaders here what we are really going to do when we get to the House. I, for one, would feel pretty bad about having lost what I think is a very good provision here, lost to purity, only to lose our purity when we get over in conference.

Mr. SASSER. That is a point well made, and I think we will just have to plow that furrow when we come to it, I would say to my friend from Louisiana, but I am hopeful we will find perhaps some of our House colleagues have some of the old-time religion by the time we get to conference, also.

Mr. President, I yield such time on the amendment to the distinguished President pro tempore as he may consume.

The PRESIDING OFFICER. The Chair informs the distinguished Senator that there are 3 minutes remaining on the time.

Mr. SASSER. Mr. President, would it be appropriate at this time to indicate that if the distinguished President pro tempore should consume more than 3 minutes—and I anticipate that he will—that we can yield such time as he may consume off our portion of the bill?

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. BYRD. Mr. President, John Stuart Mill said, "On all great subjects, much remains to be said." This is a great subject, the reconciliation bill, and much remains to be said. The hour is late. I would not impose on the patience and time of my colleagues were it not, in my judgment, a moment worthy of comment from me.

I have seen the Senate many times when it gave me reason to be concerned about its future. I have also seen it on some occasions when it gave me reason to be proud. One such occasion was when the Panama Canal Treaties were approved. I knew then how difficult it was for the Senators on both sides of the aisle to rally to support the approval of the ratification of those treaties. Senators did it in the face of tremendous opposition from all over the country, but they arose to the need of the moment, and I think that they wrote in large letters the character of the U.S. Senate.

Tonight I think that we should pause to reflect upon this institution to which Gladstone, that great English statesman who lived during the long reign of Queen Victoria and who was Prime Minister of England four times, referred when he spoke of the U.S. Senate as "that remarkable body, the most remarkable of all the inventions of modern politics." That is what this institution is. There have been 1,792 men and women who have served in this body since its beginning in 1789, and every Member of this Senate ought to reflect upon that, and it is not too much to say that Senators who serve in this body are a chosen people, a body of 100 Members, like the early Roman senate which was made up of 100 nobles, and later 200, later 300. Sulla increased the number to 600 and Caesar to 900, and Augustus brought it back to 600.

There have been other senates. The senate of Sparta. Lycurgus, the lawgiver, is remembered. The first and most important institution that he created was a senate made up of 28 senators whose purpose it was to keep the authority and power of the kings within proper bounds.

The U.S. Senate is the centerpiece of the great compromise. It is the masterpiece of the men who wrote the Constitution. They had all of the history of their English forebears and brethren and the history of other European parliaments before them. They knew very well the experience of Englishmen who had by the sword and with their blood wrested from monarchs over the centuries the prerogatives and the rights of Englishmen and the prerogatives and the rights of Parliament. They also had the colonial experience. They were wise men, and they saw the need for a system of checks and balances, and the Senate was the balance wheel of that system. The Senate was given extraordinary powers: judicial powers, the power to

try the highest officer of the Government; executive powers, the power to approve the ratification of treaties and to approve nominations; and investigative powers. But the basic cement that was the very foundation of this balance wheel were two in number, the right to debate and the right to amend. The other body may amend, but the other body may also issue a rule which, if agreed to, will confine amendments to one in number or two in number or three or none and direct that a certain Member will be the only Member who will offer that one amendment or those two amendments.

The House has the previous question, but not the Senate. The Senate allows unrestricted debate. We now and then restrict ourselves through the cloture motion, which first was created in 1917. But the right to debate and to amend is why we should be proud of this institution, why we should revere it.

The Constitution, in section 7 of article I, says that measures that raise revenues shall begin in the House of Representatives, but it also says that the Senate may propose or concur with amendments as on other bills. So there is a constitutional right reposed in the Senate to amend even revenue bills.

The Senate and the House have their tensions between them, as do the executive and the legislative, all these with the built-in tensions that the forefathers took great care to fashion in order to make this a system of checks and balances.

But in the reconciliation bill, we were about to inflict our own mortal wound, as Cassius did with the same dagger that he had plunged into Caesar's blood, bringing a bill of such magnitude here which contained scores of measures, on any one of which the Senate should have had the opportunity to debate at full length and to amend. What hidden pieces of legislation might come to the floor in a package of this size? What hidden legislation we might vote upon and come to regret at a later time?

This is an institution for the protection of minorities, an institution in which the minority can put a bridle on the majority for at least a while until the country can be awakened to the mistakes that might otherwise be visited upon the people. We should not view this Senate lightly, and never should be party to weakening this institution, with which we have been blessed.

Yes, there were limitations on debate in 1919 in the League of Nations debate, and in 1926 in the World Court debate, limitations through the cloture rule, but their price was substantial concessions by the majority.

The Senate is the forum of the States. There is no other forum in this Government where the States stand as equals—little Rhode Island stands equal to Alaska or California or Texas or New York—the only forum in which minorities are protected against the sudden waves of passion that might sweep over the Nation.

A reconciliation bill is a super gag rule, the foremost ever created by this institution. Normal cloture is but an infinite speck on the distant horizon when compared with a reconciliation bill. Cloture may be invoked on any measure, motion, or matter. Sixteen Senators sign a cloture petition; parts of 3 days transpire before cloture is invoked; and when it is invoked, it is invoked on only one matter or one measure or one motion. Then there are 30 hours of debate. The provision is within that rule that that time may be extended by a three-fifths majority vote to whatever—40 hours, 50, 75 or 100 hours. But not so with reconciliation. Reconciliation comes to the floor. There is no opportunity to debate a motion to proceed, whereas, under cloture, an attack can be made by the minority even on the motion to proceed. The minority ought to be zealous in protecting that right; the minority may be on this side of the aisle tomorrow, as it was yesterday.

Under reconciliation there is no motion provided to extend that time beyond 20 hours, but there is a motion that is nondebatable and can be invoked by only a majority of Members to reduce the time, and it can be reduced to 10 hours or to 5 hours or to 2 hours or to 1 hour without debate. Only a majority vote is needed to reduce it to no time:

Mr. President, I move that the time remaining on reconciliation be reduced to no time. What can you do about it? Weep. Reconciliation is one real beartrap.

And so it has been with sorrow that some of us have seen what has been happening on reconciliation. It is a process which has gotten out of hand and, if continued, it will undermine the deliberative nature of the institution.

It is a process by which committees of the Senate may dictate to the Senate. You take what we give you. There is not a thing you can do about it. Oh, yes, you can strike. But you take what we give you.

And within those committees that determination is made by a majority. There is a 17-member committee, and 9 members of the committee can determine that. Send that to the Budget Committee, and the Budget Committee has no alternative but to send it to the Senate, and here we are faced with a super, super, colossally super, gag rule.

So we ought to take the utmost care in handling this legislative weapon.

Mr. President, I have had my faith renewed in this institution in these recent hours. I compliment the majority leader. He has the toughest job in this town. He cannot fire any of us—not any of us. We can dare him to try. He has the toughest job.

I compliment the minority leader. These two men had to work together, and we have witnessed some real statesmanship in their work. I knew it was here before today.

I have seen LLOYD BENTSEN before when he has faced tough assignments and when he has also said, "I will do my best."

The same can be said of JIM SASSER, one of the bright young men that I have seen come to this Senate and take the Senate to heart. We ought, like Paul, to be stricken blind for a moment that we might see revealed in the bright light of truth, what this institution is.

Yes, there were important measures wrapped into this reconciliation bill. But I hope that this is the beginning of the end of the abuse of the reconciliation process. I hope that it will be a lesson learned by all of us that we might in the future take heed, and remember not to put that measure that is so dear to our hearts into the reconciliation package. I hope the other body will take the action of this body to heart as well. They ought, too, to experience joy in this moment because, after all, the Senate is one of the two Houses of the Congress—the people's branch.

Mr. President, I close by saying, as I began, that human ingenuity can always find a way to circumvent a process. And reconciliation is a process. It has been abused terribly. But I have regained my faith. We are told in the Scriptures:

> Remove not the ancient landmark, which thy fathers have set.

The Constitution is the old landmark which they have set. And if we do not rise to the call of the moment and take a stand, take a strong stand against our own personal interests or against party interests, and stand for the Constitution, then how might we face our children and grandchildren when they ask of us as Caesar did to the centurion,

> How do we fare today?

And the centurion replied,

> You will be victorious. As for myself, whether I live or die, tonight I shall have earned the praise of Caesar.

I not only compliment, but I also thank Members who have risen in this moment to do the responsible thing. We are going to look back on this day. So when you go with pride to meet the other body in conference, go with strong hearts, with confidence, and a determination that you are going to uphold the principles that our forefathers, men of this institution, stood for. Yours is an equal body—the Senate.

When Aaron Burr walked out of the Old Senate Chamber on March 4, 1805 after he had sat in the chair, and presided over the impeachment trial of Supreme Court Justice Samuel Chase—Burr had killed Alexander Hamilton in a duel at Weehawken, NJ. He sat in that chair as though nothing had ever happened. Warrants had been issued in the State of New Jersey and New York for his arrest. But he presided over that trial with a degree of fairness that was commended by friend and foe alike.

As Burr bade goodbye to the Senate over which he has presided for 4 years, this is what he said. And I close with his words because I think they may well have been written for a moment like this. He said:

This House is a sanctuary; a citadel of law, of order, and of liberty, and it is here—

It is here—

in this exalted refuge—here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God averts, its expiring agonies will be witnessed on this floor.

[Applause. Senators rising.]

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, when I stood here 8 nights ago to make the proposal that has led us to this moment, I could not have foreseen and did not foresee what would occur.

But if nothing else had occurred, the difficulty of the past 8 days, particularly for those handful of us who were involved in it throughout, would have been worth it for the privilege and the opportunity to have heard the words of the distinguished President pro tempore of the Senate this evening, one of the most remarkable persons who has ever served in the U.S. Senate, and I might say, who has ever served the U.S. Senate.

On behalf of every Senator—and although the occasions are rare in which I feel I can speak for more than one Senator, on this one I feel I can speak for 99 of them: Thank you, thank you. We appreciate the Senator's words, his presence, and the privilege of serving with him.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, Senator DOMENICI has given 3 minutes to the Senator from Maine.

Mr. COHEN. Mr. President, let me add just two words to the comments made by my colleague from Maine. It has been said that words are but the empty vessels into which we pour the meaning of our minds.

I say there are few in this Chamber that can match the President pro tempore and his command of words, his deep reverence for history, and for his love of this institution. I believe that we are all grateful beneficiaries for the meaning of your mind.

Justice Holmes once said that we cannot live our dreams. It is enough if we can give but a sample of our best and know in our hearts it has been nobly done.

On behalf of my colleagues, certainly on this side, and I believe the other as well, the Senator has given a sample of his best, and in our hearts, we know it has been nobly done.

Mr. President, I do not have the historical background of the distinguished Senator from West Virginia. But I came to Congress in 1972, and at that particular time, President Nixon was involved in the impoundment process. At that time, he accused Congress of engaging in irresponsible spending. It was, if I can borrow Hemingway's phrase, a "movable feast" that he was faced with every single year, and he impounded the budget.

There were some in Congress that believed President Nixon should have been impeached for his impoundment policies. Fortunately, wisdom prevailed, and there were no articles of impeachment on impoundment, but, rather, it served as the impetus for the construction of the Budget Act itself in which this process called reconciliation was an integral part.

Unfortunately, if you can show me a reform, I will show you a scandal deferred. We had political action committees that came in as a basic reform to the contribution system back in the early seventies. Today it is being attacked as being scandalous in operation. The same thing has happened with the reconciliation process.

I want to pay tribute not only to the distinguished Senator from West Virginia but to two other people in this Chamber tonight—three, but he is not here, I will mention him in absentia—both of my colleagues over here, PHIL GRAMM and WARREN RUDMAN.

A lot has been said about the Gramm-Rudman bill. DAN ROSTENKOWSKI recited in a statement he made earlier, and also in an article in the New York Times today that every criticism of Gramm-Rudman is true. "It is mindless. It is an abdication of the President on the part of the President and Congress."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield 2 additional minutes off the bill.

Mr. COHEN. "For all of its faults, Gramm-Rudman has one thing going for it. It can result in more real deficit reduction than we will ever achieve in the budget reconciliation bill."

He wrote this article before the action was taken today. Nonetheless, what he pointed out under Gramm-Rudman-Hollings—I understand the Senator from South Carolina would like separation from Gramm-Rudman—$16 billion will be saved in the first year and $80 billion over 5 years, compared to the reconciliation bill that the House had to pass, that would provide for $16 billion over 5 years and a growing deficit thereafter.

The process had become abused. I think we owe a great deal of credit to, and we would not be here tonight if it were not for the Gramm-Rudman-Hollings Act. It has forced us to do that which we are required to do, and that is to measure up to our responsibilities. I think we owe a great deal of thanks to our three colleagues of the Senate for forcing us to do what we have an obligation to do.

It has been said on television today by a respected businessman that the stock slide this afternoon was attributed to the news about the postponement of capital gains. I must say that I find that incredible to accept. The heart of our problem is not that we do not have enough preferential treatment for capital gains, but we do not have enough preferential treatment for fiscal responsibility.

This action that we are taking tonight is the first step in a long time that we are taking toward fiscal responsibility. So I want to commend all of my colleagues, the majority leader, minority leader, and all who have been involved in this process for the courage demonstrated in measuring up to meeting those responsibilities.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes, 44 seconds remaining.

Mr. DOMENICI. Do I have time remaining on the amendment?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. SASSER. Mr. President, has all my time expired on the amendment?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1004) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time on the bill?

Mr. SASSER. How much time is remaining on the bill, Mr. President, may I ask?

The PRESIDING OFFICER. The Senator from Tennessee has 35 minutes; the Senator from New Mexico has 1 hour.

Mr. SASSER. Mr. President, I know of no amendments on our side.

Mr. LEVIN. Will my friend from Tennessee yield on that issue?

Mr. SASSER. Do I yield for the purpose of offering an amendment?

Mr. LEVIN. I had intended to offer an amendment, and I will do something other than that, if I can be yielded 3 minutes.

Mr. SASSER. If the Senator can do something other than that, I am pleased to yield.

Mr. LEVIN. I see the Senator from Missouri is on the floor. He can help me.

Mr. SASSER. I yield 5 minutes to the Senator from Michigan.

Mr. LEVIN. Mr. President, I had intended, along with Senator SYMMS and Senator LIEBERMAN, to offer an amendment to strip from this bill a new tax on amateur radio operators. We have never before taxed ham radio operators, ever. They are volunteers who perform a valuable public service at no cost to the public. They help us in times of national emergencies, including tornadoes, hurricanes, and earthquakes. They do it on a volunteer basis. I do not think that anybody in this body actually intended to initiate a new tax on these ham operators, but the bill before us does have, for the first time, several fees from $35 to $105 on ham radio operators.

I was going to introduce an amendment to strike these fees. I understand the reasons the leadership does not want this bill open to amendment; it would open another kind of floodgate which they want to avoid, and I can respect that. On the other hand, I think that if we were voting on this amendment under ordinary circumstances, that the managers of the bill for the Commerce Committee would accept this amendment.

I have talked to Senator HOLLINGS, who does not like this new fee. I have had a brief conversation with Senator DANFORTH now, and he can speak for himself. But given the exigencies here tonight, and the resistance to opening up this bill to any amendment, even to strip a new tax, and this would, of course, meet the Byrd rule if this amendment were introduced, I will not offer this amendment, because I believe that the managers of the bill, when they go to conference, will be in a position to take care of this problem.

But it is a problem. There are about 450,000 amateur radio operators in this country; these are volunteers, people who perform their service not-for-profit. They have always been exempted by the FCC from these fees. And I think that the vast majority of this Senate would want to avoid any new tax on these ham operators under normal circumstances.

I wonder if my friend from Missouri might comment on the issue that I have raised.

Mr. DANFORTH. Mr. President, speaking only for myself, and Senator HOLLINGS is not on the floor, I understand that Senator LEVIN has spoken to Senator HOLLINGS about this matter and that this is also in accordance with his views. In the Commerce Committee we not only met but we exceeded our instructions under reconciliation.

The amendment in question that was raised by Senator LEVIN is $4 million. We can take care of this and still be over our reconciliation instructions.

But what we have attempted to do in the Commerce Committee is to set up a general user fee scheme for people doing business with the FCC, but we never really focused on the question of the amateur radio operator. So as a matter of policy and also a matter of dollars we would be prepared to work with the Senator from Michigan. This is, of course, on the assumption that we do in fact go to conference with the House. If there is a conference with the House I want to assure the Senator from Michigan that I will do everything I can to work with him and I believe that we can drop this particular matter from the legislation.

Mr. LEVIN. I thank my friend from Missouri.

Mr. President, the Commerce Committee has chosen to impose unprecedented fees on the amateur radio operators to help meet our reconciliation targets.

The proposed budget reconciliation of the Commerce Committee provides for approximately $43 million in additional revenues to the FCC supposedly to cover the FCC's administrative costs in licensing radio services. $3.78 million would come from new fees charged to amateur radio operators for the first time.

The proposal assesses $35 for the following categories: new license; modification of license; renewal of license; reciprocal permit for alien amateur license; renewal or modification of amateur club, RACES, or military recreation station license; special temporary authority; and a $105 fee for a request for a waiver.

Current law specifically exempts the following radio services from licensing charges: local government, police, fire, highway maintenance, forestry-conservation, public safety, and special emergency radio. These radio services are not the subject of the Commerce Committee's proposal. In addition current law states that the FCC "may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest."

To date, the FCC has, under this waiver provision, exempted other public service efforts from licensing fee requirements, including amateur radio operators and public broadcasting.

Earlier this year, the FCC provided at Congress' request, a list of licensing fees—many of them new—that would raise significant moneys for purposes of reconciliation. The fees were supposed to reflect the actual administrative costs for the licensing. The bulk of the estimated fees for the amateur radio operators were no more than $5, and the FCC said explicitly that it was not making a recommendation that such a fee be imposed.

However, the Commerce Committee chose to raise $3.78 million of the $43 million required, from fees on amateur radio operators, through fees for above the $5 cost estimated by the FCC and even though they continued to exempt public broadcasting as well as the other public service efforts already exempted by law.

Such a fee for amateur radio operators is unfair and unwise.

The amateurs perform a valuable role for our Nation in public safety, disaster relief, and emergency communications for national defense, among other services. The amateurs were the vital link in communications during Hurricane Hugo, earthquakes in Mexico and El Salvador, and—in my own backyard—the 1987 Detroit metropolitan disaster.

Amateur radio operations serve as an excellent educational tool for our young children. They demonstrate the excitement and practical rewards of applied science. Amateur radio operations also provide a tremendous source of pleasure and pride to handicapped and retired individuals.

Amateur radio operators serve as an important but unofficial link to the rest of the world—allowing informal and directly personal communications between persons of widely divergent cultures—an Australian farmer and a Boston engineer. One enterprising American even communicated for a lengthy period of time with a Soviet cosmonaut orbiting the Earth. Such relations bring a tremendous advantage to our overall efforts of world peace and friendship.

Moreover, the amateur radio operator community already administers much of their administrative burdens, including conducting their own licensing examinations on a voluntary basis. It has been estimated that the amateurs have saved the FCC $1 million a year from 1983 to the present by administering their license examinations on a voluntary basis.

Not only that, Mr. President, but the FCC, as I said before, has indicated that the $35 proposed fee is significantly higher than the administrative costs these fees are designed to recover. In effect, therefore, a sizable portion of these fees is really a tax.

Amateur radio operators perform similar services to the radio services that are already exempt from such fees by law. They are intimately involved in issues of public safety and disaster relief, and they work without profit. In fact, amateurs pay for their own equipment. If we are to address their work in any way, it should be with praise and thanks, and not with new charges.

Mr. President, if I had offered this amendment tonight, it would not have caused us to exceed the reconciliation target, because the Commerce Committee reported, and this bill includes, save $12 million in excess of the target.

Mr. President, I ask unanimous consent that the amendment I had intended to offer be printed in the RECORD at this point and that the letter to me of Mr. George Race the Michigan section manager for the American Radio Relay League, Inc. be printed in the RECORD following the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In the material under the caption "Private Radio Services" contained in the "Schedule of Charges" to be prescribed by the Federal Communications Commission, in section of title III, strike the following:

7. Amatuer license:

a. New license (per application)	35.00
b. Modification of license (per application)	35.00
c. Renewal of license (per application)	35.00
d. Reciprocal permit for alien amateur license	35.00
e. Renewal or modification of amateur club, RACES, or military recreation station license	35.00
f. Special temporary authority (Initial, modifications, extensions)	35.00
g. Request for waiver	
(i) Routine (per request)	105.00
(ii) Nonroutine (per rule section/per station)	105.00

THE AMERICAN RADIO RELAY LEAGUE, INC.,
September 27, 1989.

Senator CARL LEVIN,
Russell Building, Washington, DC.

DEAR SENATOR LEVIN: I am writing in regard to House Resolution 3299. Introduced into the House on September 20, 1989, this bill contains a license fee proposal that will have a financial impact on the more than 500,000 Amateur Radio operators across the nation.

These Amateur Radio Operators provide a volunteer radio communications service to Federal, State, County and Local Government. Many nonprofit organizations are also served as well. Reliable primary and secondary communications links are provided where and when needed. This service is absolutely free! Federal Communications Commission rules strictly prohibit compensation, of any kind, for services rendered.

Amateur Radio communications is often the first and only link with the outside world when disasters occur. It is ironic that as HR-3299 was being introduced into the House, Amateur Operators were providing emergency communications in the wake of hurricane Hugo. Still other Amateur Radio Operators were preparing for Hugo's arrival at our Southeastern coastal areas. As I write this letter, hundreds of Amateur Radio Operators are handling Health and Welfare messages to and from the Caribbean and our own devastated coastal areas. Others are working in the disaster areas, providing primary communications for Police, Fire, Emergency Management, Red Cross and Salvation Army operations. Using their own equipment, without remuneration of any kind, these volunteers give freely of their time and expertise in service to others.

When President Bush speaks of a better and kinder Country through voluntarism, he is speaking of the heart of Amateur Radio. We are "amateurs" only by virtue of our volunteering of time, skill and equipment. We are professionals when it comes to Emergency Communications in service to our Nation.

As the elected representative of Amateurs Radio Operators in Michigan, I ask that you act in our behalf to prevent the passage of any Bill that will have a financial impact on our hobby.

Sincerely,

GEORGE RACE,
WB8BGY ARRL Michigan Section Manager.

ALBION, MI.

Mr. LEVIN. Mr. President, I commend Mr. Race not only for his efforts as one of our Nation's hams, but for his thoughtful and articulate letter on the unfairness and inappropriateness of these fees.

Mr. President, I would also like to point out that in addition to Senators SYMMS and LIEBERMAN, Senator DODD would have cosponsored my amendment.

TAXES ON LANDING AND TAKE-OFF RIGHTS AT HIGH DENSITY AIRPORTS

Mr. SIMON. Mr. President, I rise to join my colleagues from the State of Illinois, New York, and New Jersey who are among 15 of us opposing one provision by the Senate Commerce Committee in the Omnibus Budget Reconciliation Act of 1990. This provision would raise a minimum of $239 million in new revenues from only four airports, O'Hare, La Guardia, Kennedy, and Washington National from a slot fee on landing and takeoff rights of the air carriers serving those airports.

The slot fee was adopted without public notice or a formal hearing by the committee with jurisdiction over taxes or by the Senate Commerce Committee to consider its consequences. Large payments averaging $70,000 per slot per year will be paid by the carriers and will be deposited in the general fund for budget reduction purposes.

These costs will be passed on to passengers at the four airports, but will not be paid by passengers at competing airports. Worst of all there will be no direct benefits to those passengers, the carriers, the airports, or their host cities, nor will it serve as a solution to other problems of capacity, safety, or airline competition.

One carrier at Chicago O'Hare, United, will be charged up to $55 million and a second carrier, American, more than $45 million. Air Wisconsin, a regional airline serving O'Hare will pay $3.5 million pushing its fares above those of its competitors not paying slot fees.

This slot fee is being imposed at a time when Chicago O'Hare Airport, lacking Federal discretionary funding assistance, has increased its debt burden by over 4,000 percent over the past 6 years. The airlines are now contributing a 433-percent increase in terminal rates and a 14.5-percent increase in landing fees there.

The Federal Aviation Administration is authorized to establish the slot fees based on the value of each slot to its holder. Yet the U.S. Circuit Court of Appeals here in Washington, DC, in 1976, ruled that an agency may include only those direct and indirect costs it incurs in conferring a special benefit on the recipient in a case brought by the National Cable TV Association against the Federal Communications Commission. It may not charge the recipient for expenses incurred in serving an independent public purpose.

The value of these slots to the carriers is based on the revenues and profits of each flight. In the same case I just cited, the circuit court ruled that an agency cannot calculate its fees on the basis of the return on investment or profit to be derived by the recipient as a result of the benefit. Otherwise the agency is unlawfully attempting to levy a tax rather than charging a fee.

A serious ripple effect on U.S. carriers serving overseas markets is another impact not fully considered when the slot fee was adopted. The U.S. Government has historically supported cost-based fees on U.S. carriers landing abroad. That objective will be difficult if not impossible to achieve if this additional value based tax is imposed on foreign carriers using the high density airports.

Traffic has grown at other large and medium sized commercial airports as well as at the four high density airports that will not have to pay a slot fee. Other airports experience the same kind of delays that tie up traffic at the high density airports. Thunderstorms, heavy snow, hazardous winds, and poor visibility occur throughout the system.

In Chicago, traffic is also delayed by inadequate airline control facilities and personnel. After airline controller operational errors, they climbed from 5 in 1987 to 28 in 1988, I sponsored a bill, enacted into law, that requires the Federal Aviation Administration to produce and carry out a plan to bring the Chicago airline control system up to standards that provide for peak

period travel. That is expected to require several years to implement.

We can no longer build or even expand airports in many large cities where the service is needed the most. An airport is an unwelcome neighbor. Yet if these central cities are to remain in the mainstream of the national and global economy, air carrier service must not only remain intact, but make the fullest and most efficient use of the airport capacity that is already there.

I am very grateful for the excellent work of the Senate Commerce Committee in its oversight of aviation safety and service and airport development during the decade following aviation deregulation. I agree that the issue of allocating landing and takeoff rights between new entrants and incumbent carriers remains, and the issue of increasing the capacity of the airline control system must also be solved. This proposal does not address these problems, nor is it fair to cities whose airports will now have to compete with others not paying the higher costs.

AIRPORT SLOT FEES

Mr. DIXON. Mr. President, let me first take this opportunity to commend the distinguished chairman of the committee, Mr. HOLLINGS, and all members of his committee, for complying with the difficult obligations under budget reconciliation.

I must, however, express my deep concern over language in their reconciliation package that raises $239 million through fees imposed on landing and takeoff slots at the Nation's four high density airports—Kennedy and La Guardia in New York, Washington National, and Chicago O'Hare International.

This proposed fee is discriminatory in that it would be assessed against only four airports, as well as the carriers and passengers using those facilities. Such a proposal would give carriers that serve airports other than the four in question a direct competitive advantage.

O'Hare Airport in Chicago is hit hardest of all by this provision. It is estimated that the fee will average over $70,000 for each landing and takeoff slot. With 1,668 slots, O'Hare's cost alone will be over $120 million. That means O'Hare will have to pay over 50 percent of the total cost.

O'Hare and its airlines make the largest contribution to the airport trust fund of those user fees already imposed by the Federal Government, yet rank a low 21 out of the top 24 airports on return of Federal discretionary dollars. In other words, O'Hare is already paying in more than other airports to the Federal Government, while getting back less.

O'Hare has nonetheless pressed forward with $2 billion in capital improvements, with only 1 percent of the funding from Federal sources. This has caused O'Hare's annual debt service to increase 4,239 percent in 6 years; terminal rental charges have had to increase 433 percent and landing fees 14.5 percent to cover the increased debt.

The proposed slot fee will further aggravate the cost discrepancy between O'Hare and non-high-density rule airports, and may encourage some airlines to move their operations elsewhere.

The most immediate consequence will be an increase in air fares for all flights in and out of O'Hare. Higher air fares will make O'Hare less desirable as a hub transfer point and will result in passengers seeking cheaper alternative routings which avoid Chicago. Ironically, this Government-imposed penalty on Chicago passengers will result in increased fares at the same time Congress is focusing attention on the desirability of lower air fares.

Furthermore, the proposed fee is to be value based. That fact will force airlines to achieve the maximum yield from the use of each slot. This means airlines will be forced to drop marginally profitable short-haul lines, such as those serving downstate Illinois communities, and transfer the use of such slots to long-haul, larger aircraft which can support the increased cost of a per-seat-mile-based slot assessment.

Given the discriminatory nature of the slot fee proposal, and the adverse impacts it will have on the affected airports, this type of Federal action must be more fully reviewed before being implemented as part of budget reconciliation.

I therefore urge the conferees to reconsider this matter in conference, and refrain from imposing such fees.

Mr. KOHL. Mr. President, I would like to raise a specific concern I have about this bill with regards to an action taken by the Commerce Committee.

In its reconciliation package, the Commerce Committee included a provision to institute airport slot fees at the four airports that were designated as high density by the Federal Aviation Administration [FAA] in 1968: National Airport in Washington, DC, La Guardia and Kennedy Airports in New York, and O'Hare Airport in Chicago. This provision is designed to generate $239 million in revenues in fiscal year 1990.

While I certainly appreciate the difficult decisions faced by each committee in meeting its reconciliation instructions, I am disappointed in the Commerce Committee's decisions to include this particular provision. The imposition of airport slot fees would have an immediate, significant adverse economic impact on the air carriers that operate slots at these four airports. The eventual effect of these fees is likely be an increase in air fares and a reduction in services and routes offered by affected air carriers.

To accomplish the $239 million revenue goal, the average fee per slot per year would have to be approximately $70,000. Let me explain the probable impact of this on United Express, a carrier based in Wisconsin that serves 21 cities, among them Chicago. United Express operates 50 federally allocated air carrier slots at O'Hare Airport. Imposition of these fees at this rate would mean an annual additional operating cost to United Express of $3.5 million. Their estimates indicate that, to offset this cost, they would need to add an additional 3,500 passengers per year. That is a very significant increase in the regional market that United Express is operating in.

Mr. President, no hearing has been held on this proposal by the Commerce Committee. In addition, it is questionable whether the language adopted by the committee constitutes a fee proposal or a tax. A fee implies a return for services rendered by the Federal Government. Yet there are no additional services provided to air carriers at the four high density airports, and no special services provided to carriers in possession of slots.

The high density rule was instituted by FAA in 1968 to minimize air traffic congestion at heavily used airports. However, the rule now—21 years later—is decidedly outdated. Other airports not covered by the rule are equally congested. The purpose and design of the high density rule needs to be reexamined, and I hope that the Commerce Committee will consider doing so in the near future. However, until there is some revision to the rule, the imposition of airport slot fees on carriers at these four airports is completely arbitrary and unfair to the carriers involved.

Mr. President, there are many reasons not to support this bill, this being just one. And I will not support this bill. While I do not intend to offer an amendment to strike this provision, I am hopeful that this language will be dropped in conference, the House-passed bill having no similar provision. It is an arbitrary action, and one that would endanger the economic viability of many air carriers, which is neither wise given the current volatility in our domestic airline industry nor in the best interest of the air traveling public. I hope that my colleagues will join with me in urging conferees to reject this provision.

Mr. SASSER. Mr. President, do any Senators wish to offer any additional amendments at this time?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the distinguished minority leader.

Mr. DOLE. Let me repeat what the Senator said. If anyone wishes to offer an amendment—I am not going to say they are going to pass—now is the time to do this. They have 30 minutes.

We made an agreement we are going to defeat any amendments, so I hope there are none on this side.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I am one who through the day asked for time to present my amendments. My staff and I have gone over the leadership amendment. It is fair and balanced. There is no reason for us to offer amendments. We have been treated equally. I had three amendments I was going to offer. I have no amendments in this bill after the leadership amendment is adopted.

In interest of complying with the request of the leadership and the distinguished President pro tempore, I do not offer them.

I congratulate them on the procedure and congratulate them on leaving the time available in case it was needed.

Mr. SASSER. I thank the Senator from Alaska for his time.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Mr. President, it appears there are not going to be amendments. We will, therefore, be proceeding shortly to a rollcall vote on final passage of the reconciliation bill and immediately thereafter on the cloture of the Nicaragua Elections Assistance Act. Therefore, Senators who are not now on the floor or on the Hill I hope are being alerted by their offices so that they can return and be present for the vote.

We had previously, I believe, through both Cloakrooms, notified Senators votes were imminent. I know many Senators are not present on the floor. So I merely take this opportunity to give Senators a few moments' notice so that all Senators who are not present can be notified by their offices and return to the Senate because we have two rollcall votes coming up very shortly.

Mr. SASSER. Mr. President, may I inquire how much time in total is remaining on the bill?

The PRESIDING OFFICER. The Senator from Tennessee has 27 minutes; the Senator from New Mexico has 58 minutes.

Mr. SASSER. Mr. President, if the Senator from New Mexico is prepared to yield back his time, we will be prepared to yield back our time on this side of the aisle. And we do not want to work a hardship on any Senators who may be some distance away, but I will say to the distinguished majority leader that I think he announced an hour and half ago we were going to have a rollcall vote on this measure. They should have had adequate notice.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to Senators on this side I have heard from none of them that have any amendments. We are ready to yield back very shortly. I hope if anyone has any amendments they will call it to our attention.

I yield to my friend Senator SYMMS.

Mr. SYMMS. Mr. President, I say to my dear friend if it were not for the responsibility that the leadership is exerting here on both sides of the aisle this Senator would have several amendments on this bill, but I am going to restrain myself.

FOREIGN REPORTING REQUIREMENT MODIFICATION

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter I have received this evening from Treasury Secretary Nicholas F. Brady, on the increased reporting and compliance measures by U.S. taxpayers which are controlled by foreign entities—section 6403 of the Senate bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, October 13, 1989.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR STEVE: Thank you for your letter of September 27, 1989, regarding section 11403 of H.R. 3299, the 1989 Revenue Reconciliation bill. As you know, that section provides for increased reporting and compliance measures by U.S. taxpayers which are controlled by foreign entities.

I appreciate your comments. We have heard a great deal about the impact of these provisions on international trade and investment and understand the significance of the concerns you raised.

We support the goal of developing appropriate procedures to increase compliance with U.S. tax laws by foreign-owned U.S. entities. Nevertheless, we recognized that overbroad rules in this area could unduly burden taxpayers and discourage trade and investment. For this reason, we have worked closely with Hill staff to clarify and refine the House-passed provision.

As it stands now, in the form reported by the Senate Finance Committee, we believe the provision is intended to ensure that the recordkeeping requirements and penalties imposed on foreign-owned companies are no different, in general effect, to those imposed on U.S.-owned companies, recognizing the unique tax administration problems present where information pertinent to a U.S. tax examination is controlled by non-U.S. persons. This intent is consistent with how Treasury intends to exercise its regulatory authority under the provision should it be enacted.

In this regard, we note that the Finance-reported bill and Committee report reflect the following differences from the House bill:

1. The requirement that the foreign owner appoint the U.S. taxpayer as its agent is clarified so that such agency is limited to an appointment solely for purposes of summons enforcement under the Internal Revenue Code and not for any other purpose of federal or state law.

2. The disallowance rules which automatically eliminate deductions and the cost of goods sold in transactions between the U.S. taxpayer and its foreign owner are replaced with Treasury authority to value such deductions and costs, at its discretion, on the basis of available, credible information.

3. Provided it is clear that deductions and costs can be valued at Treasury's discretion on available information when a taxpayer fails to maintain required records and to make them available at Treasury's request, it is unnecessary to require that records generally be maintained in the U.S. The bill, therefore, grants Treasury broad regulatory authority to specify, limit, or eliminate the categories of the records to be maintained in the U.S. and to enter into individual record retention agreements with a taxpayer modifying the general rules in appropriate specific cases.

4. If records are, under regulations, required to be maintained in the United States they will not be required to be translated until the time specified in Treasury regulations which we expect would be when the records are requested.

5. Treasury is authorized to disregard certain *de minimis* failures in applying the penalty provisions.

6. Where bilateral tax treaty procedures are both adequate and practical in their application to protect the U.S. government's interest in a given case, the Internal Revenue Service is expected to use those procedures before issuing a summons to the designated agent.

We will also suggest that the Conference Committee make several additional refinements:

a. that the Statement of Managers clarify that the summons authority in this provision for testimony of employees of the foreign owner extends only to explanations of transactions relevant to the examination of the U.S. taxpayer and documents pertinent thereto and can frequently be satisfied by testimony of employees of the U.S. taxpayer;

b. that the bill and Statement of Managers make clear, as is already clear under the Senate bill with respect to documents that, once persons are present in the U.S. pursuant to a summons issued under the provision or under regulations promulgated under the provision, their presence is intended solely for federal tax enforcement purposes and they will not be subject to legal process in federal or state non-tax litigation;

c. consistent with paragraph 3, above, and the bill as reported by the Finance Committe, that the Statement of Managers clarify that there is no general rule requiring maintenance in the U.S. of records of related, non-U.S. persons, but that, generally, record maintenance in the U.S. would be required under regulations only where there are reasons to believe that such records would not be timely and completely produced upon request; and

d. that the Statement of Managers state that the bill, consistent with Congressional intent and Treasury's intent with respect to regulations, as I describe above, in no way discriminates against foreign-controlled U.S. corporations in violation of any treaties and, therefore, the treaty override "backstop" language in the Ways and Means and Finance Committee reports is unnecessary

and, given our common goals under this provision, undesirable.

We would appreciate any assistance you can provide us in working with Hill staff and Conference Committee Members so that the Senate's amendment to these provisons and the further refinements described above are included in the bill produced at Conference.

Sincerely,

NICK.

BOND ARBITRAGE REGULATIONS

Mr. SYMMS. Mr. President, one of the issues we did not adequately address during Finance Committee markup is the need for relief for State and local government bond issuers from the administrative burdens imposed by the arbitrage rebate requirement of the 1986 act.

The 243-page arbitrage rebate regulations, which provide only partial guidance and are written in a fashion that mere mortals cannot understand, were supposed to clarify for State and local issuers the easy administrative means through which issuers would comply with the rebate requirements.

Even the Treasury Department acknowledges what a disaster these regulations have proven to be and worked on seeking relief during House consideration of the reconciliation bill.

I understand there is much sympathy among the members of the Finance Committee and among the Senate as a whole to fix the problems associated with the rebate requirements. The House attempted to fix the problem but I think their provision is a bit restrictive. Let me elaborate on the problems a bit.

The House bill provides that a rebate is not required for financings in which 75 percent of the proceeds will be used for construction when 10 percent are spent in 6 months; 50 percent in 12 months; 90 percent in 18 months; and 100 percent in 24 months. For many issuers, especially in Northern States like Idaho, public buildings cannot be completed in that tight a time schedule.

I understand that Texas may not have the problem, which Northern States have, of short construction seasons, but it does have restrictive borrowing statutes that run afoul of the House provision. I am sure Texas is not the only State with restrictive borrowing procedures because States are far more sensitive about controlling public borrowing than we are here at the Federal level.

As I understand it, one of the factors State and local governments find so aggravating about the rebate situation is not that they might owe a rebate to the Federal Government—though that ought to be aggravation enough—but that even when they are not earning arbitrage, they have to set up elaborate internal systems or pay high-priced consultants to prove they aren't earning arbitrage and don't owe anything.

We at the National level establish enough mandates that State and local governments must pay for, but which provide a beneficial result, that we should not also be establishing needless and costly bean counting requirements for local governments.

I urge my colleagues who will be on the conference for reconciliation to ensure that we provide adequate relief for State and local governments so they are able to comply with a requirement that shows some public purpose at the Federal level and is workable and sensible at the State and local level.

Please remember that nobody can pour concrete year round in Boise, or any other northern city, so we must not have the Federal law mandate it. In order for my municipalities to be relieved of a needless bean counting procedure, we should establish a 36-month construction cycle. This will assure that they are not pouring concrete at a time of the year when it is unsafe.

I hope our conferees on this reconciliation will be attending to this problem in conference. I will be reminding each Senator at the appropriate time of the needs of the real world in this matter.

TAX ON DOMESTIC OFFSHORE OIL

Mr. President, I rise today to voice my opposition to the new tax on domestic offshore oil and gas production contained in S. 1750, the budget reconciliation bill. This proposal would impose a new wellhead tax of $0.03 per barrel and $0.02 per MCF on all offshore oil and gas production. The proceeds from this tax would be dedicated to fund a program, which has not yet been authorized, for wetlands maintenance and restoration.

While the objective of protecting our significant wetlands is laudable, the funding mechanism is misdirected. Let me outline just a few of the reasons why this proposal is misdirected.

First, this new tax has not received a fair public hearing in the Senate Finance Committee. It was included in the chairman's mark as one of hundreds of tax provisions and adopted without thorough consideration of its impacts.

Second, the Congress has not yet authorized a wetlands protection program into which these funds would flow. This is a clear example of placing the cart before the horse and is an abrogation of established legislative procedure. The authorizing committees of jurisdiction have not yet advanced a wetlands protection program. The proposed tax has not yet received public review in the House and Senate Tax Committees. The Appropriations Committees of jurisdiction have not reviewed or recommended spending levels for the program. None of these steps has been taken.

Third, this tax discriminates against a narrow segment of a single industry. It singles out offshore production of the oil and gas industry. Loss of wetlands is an onshore problem and is not confined to coastal areas or areas of oil and gas activity. The factors contributing to wetlands loss are well documented and include natural subsidence, agriculture, urban expansion, as well as natural resource development activities. Oil and gas activities have been directly linked to only a small percentage of wetlands loss. To suggest that offshore or onshore oil and gas activities should bear the entire burden for funding this program is unfair and without foundation.

Fourth, a tax on offshore oil and gas production creates further competitive imbalances for domestic producers of offshore oil and gas. Proponents of this measure erroneously argue that these additional costs can be recouped by the producer. I suggest to you that because these same producers compete with foreign and domestic oil that is not subject to this tax, these additional costs cannot be recouped and the profitability of offshore development will be reduced. Less profitability may not only affect the economics of future offshore development, but may have the perverse effect of reducing investment in onshore development. Taken all together, our national energy security will be further eroded.

There are many more reasons than I have given in this short time to oppose this tax. But, in summary, suffice it to say that this new tax abrogates established congressional procedures for authorizing and funding new programs; it discriminates against an industry that is only a small part of the problem, it adversely affects the competitiveness of our domestic oil and gas industry, and further jeopardizes our national energy security.

I urge my colleagues to oppose this provision and strip it from this reconciliation bill.

REVENUE BONDS

Mr. President, I would like to call the Senate's attention to an aberration in the application of the ceiling for small issue industrial revenue bonds. The current rule is that the investment limit of $10 million cannot be exceeded for 3 years after the exempt bonds are issued even if the investments are paid for with non-tax-exempt financing. This is based on the idea that if the project expands in less than 3 years perhaps it was not a true small issue in the first place.

I think a serious argument can be made that such a prohibition makes no sense at a time when the United States is competing worldwide for manufacturing facilities. But my amendment does not go that far. The amendment simply says that any capital expenditures with respect to facili-

ties which are not functionally related to the original ones financed by the tax-exempt bonds should not be counted in the application of the ceiling. If a company used industrial revenue bonds to finance a shoe factory last year and now sees an opportunity to assemble VCR's or computers, they should not be precluded from using non-tax-exempt financing to build a facility to do this totally unrelated activity.

I do not believe the drafters of the original limitation ever thought about, much less intended, it to have a negative impact on unrelated manufacturing facilities.

The amendment I hope to include in a subsequent revenue measure has no revenue impact because it does not expand tax-exempt financing. That financing would remain limited by both the $10 million individual cap as well as the overall volume cap. It would, however, allow companies the flexibility to expand into new product lines with their own money and I believe that is good tax policy.

Mr. DOMENICI. Mr. President, I yield back the remainder of the time we have on this side of the aisle.

Mr. SASSER. Mr. President, I am prepared to yield back the remainder of my time. Before doing so I would just like to make one short comment. I notice the distinguished Senator from West Virginia has left the Chamber.

But I did wish to express my appreciation for the splendid address that he presented to the Senate here this evening, and I wish to express my appreciation to him for his kind remarks.

The distinguished President pro tempore does us all a great service in reminding us from time to time that we are Senators of the United States with an obligation and a responsibility to respect and uphold the traditions of this institution.

I know I reflect the views of all my colleagues in expressing our appreciation for his very perceptive remarks this evening.

ORDER FOR TECHNICAL CORRECTIONS

Mr. SASSER. Mr. President, I ask unanimous consent for the staff to make technical corrections to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, the Commerce Committee package as contained in the budget reconciliation bill includes several new FCC fees and several fee increases, including a new common carrier fee for so-called field audits. Since the new fee schedule calls for the imposition of a $62,000 fee for a field audit, it would be useful for the FCC to define specifically what a field audit is and when the fee will be assessed.

The FCC has traditionally sent its auditors out into the field to investigate the financial practices of the telephone companies to make sure that they comply with the FCC's rules. The FCC estimates that it will conduct 15 such field audits in the coming fiscal year.

I am told that once the new fee schedule is enacted, the FCC will conduct a rulemaking to resolve certain key issues concerning these field audits. I ask that the Commission provide detailed answers, through its rulemaking process, to the following questions:

What is the FCC's definition of a field audit? For what kinds of field audits would the FCC assess a fee? Would routine field visits or informal inquiries qualify as a fee-generating field audit?

Some people fear that these new fees will give the Commission an incentive to increase unjustifiably the frequency of these audits. These new audit fee provisions should not be interpreted as a congressional grant of authority for the FCC to conduct audits which would not otherwise be conducted, just because a fee would be collected.

Mr. HOLLINGS. I would like to join my colleague Senator INOUYE, in discussing how the new field audit provisions might be implemented. I commend my distinguished colleague for the relevant and insightful questions that he has asked the Commission to address through its rulemaking process. I am hopeful and expect that the answers to his questions will more precisely define the matter in which the Commission will enforce its authority to conduct field audits and to assess this fee.

Mr. D'AMATO. Mr. President, I rise today to state my staunch opposition to a provision added to this bill which creates slot fees at the Nation's four high-density airports: JFK International Airport; LaGuardia Airport; Washington National Airport; and Chicago O'Hare International Airport. This unfair proposal will place these airports at an immediate, severe competitive disadvantage and will ultimately result in higher fares for consumers.

This amendment was added to the reconciliation bill by the Committee on Commerce, Science, and Transportation in an effort to raise a total of $239 million. The average annual per slot charge to slotowners would be about $71,000 per year. Some individual airline slotholders would be billed tens of millions each year; for example, American Airlines, $48 million; United Airlines, $58 million. Others such as Pan Am, and TransWorld Airlines would owe as much as $13 million and $16 million respectively. For the New York area airports, the Port Authority of New York and New Jersey tells me that about $80 million would be raised from airlines and passengers.

These charges are onerous, geographically discriminatory, and would not yield any aviation benefits to the four affected high-density airports. The $239 million estimated to be raised would simply go back into the pot for general deficit reduction, not into the Aviation Trust Fund. The four high-density airports are not the Nation's busiest airports, they are regionally clustered together, and they do not represent a fair sampling of air carriers serving all airports of similar size. It makes no sense to burden these airports with such heavy charges and not to apply them to Denver, Atlanta, Los Angeles, Dallas, or other airports with high-density traffic patterns. I do not advocate spreading these charges to other airports, but merely point out the inequity in singling out the four high-density airports.

The high density airport traffic rule was created in 1969, when aircraft were smaller and slower, and air traffic control systems were less able to handle increasing traffic. Today, many of the reasons for the rule no longer exist. Of the four high-density airports, only Chicago O'Hare ranks in the top five busiest airports in terms of passengers handled or operations. In terms of aircraft operations, LaGuardia ranks 25th, National 28th, and JFK 35th. Busier airports are not burdened by this rule, or the slot fee proposal. I am not now arguing to delete the high-density rule—although in 1983, the FAA itself proposed to rescind it except for National—or to apply slot fees to other airports, but I believe it underscores the blatant unfairness of this proposal.

These fees are thinly disguised new taxes being used to generate large amounts of revenues for deficit reduction. The proposal discriminates by exempting general aviation and commuter flights, and it does not create a legitimate user fee related to the cost to the Government of providing any service. I strongly urge the conference committee members who will consider this bill to drop this tax provision which is not contained in the House reconciliation bill.

Passenger fares will increase for all flights arriving and departing from the LaGuardia and JFK Airports, as well as from the other two high-density airports. At a time when consumers are complaining about higher airfares, this proposal will drive fares upward. The high cost of the slot fees will force air carriers to achieve maximum yield from the use of each slot. In the case of some short-haul markets which use smaller aircraft—mainly markets in upstate New York—the result will be total loss of service or, most assuredly, loss of jet service. Remaining service is likely to be by smaller commuter aircraft since they are exempt from slot fees.

In addition to my other objections I would like to point out the adverse

international implications of this ill-conceived proposal. At a time when the U.S. Government is a party to bilateral air transport agreements which commit the United States to impose only cost-based user charges for international air carrier landing rights, this proposal will put those agreements in jeopardy and will most likely result in the vigorous pursuit of countervailing tariffs by our bilateral trading partners. I have already heard from foreign air carriers who suggest that this proposal will have very negative implications for international air travel.

Mr. President, I urge my Senate colleagues to oppose this provision. If it is considered in a joint conference committee, it is my hope that this objectionable item will be deleted.

PROPOSAL TO IMPOSE FEES ON AIRPORT LANDING AND TAKEOFF SLOTS

Mr. LAUTENBERG. Mr. President, I would like to take a few moments to express my opposition to a provision contained in the reconciliation package before us.

On July 27, the Committee on Commerce, Science, and Transportation approved its reconciliation package, meeting its target of $450 million in revenues or savings. The committee proposed obtaining more than half that amount—$239 million—through the imposition of fees on landing and takeoff slots at the Nation's four high-density airports—Kennedy, LaGuardia, O'Hare, and Washington National.

I am extremely concerned about the discriminatory nature of the committee's proposal. The slot fee would be assessed against only four airports, and the carriers and passengers using those facilities. Carriers serving other airports would receive an immediate and direct competitive advantage created by governmental action. Passengers flying to or through these airports would be subjected to fare increases, based solely on the budgetary process, not on the need to make aviation safety or airport capacity improvements.

Further, the committee proposal provides that the slot fee may be assessed against foreign carriers only to the extent permitted by international law and treaty obligations. Therefore, the fee would also grant some international carriers a competitive advantage over domestic carriers in the same market.

Mr. President, we are all on committees. We all know the difficult choices that must be made in order to meet the targets set in the reconciliation process. I commend the Commerce Committee for struggling to meet its assigned target. But this fee was a choice that should not have been made. But unfortunately, it was made, on a 13 to 5 vote, without the benefit of hearings or wide discussion on the subject matter.

The Department of Transportation is given several guidelines: That the fees can only be applied to the four airports previously cited; that slots of commuter airlines be exempt; that slots held by foreign carriers be assessed a fee only to the extent allowed under the bilateral agreements covering those carriers' entry into the United States; and finally, that the sum total of the fees be at least $239 million in fiscal year 1990.

There was no assessment of what these slots are really worth; no indication whether the committee believed that the right to land at National at 9 a.m. is as valuable, less valuable, or more valuable than the right to land at National at 2 in the afternoon, or at LaGuardia, Kennedy, or O'Hare at 11 at night. There was no signal as to whether or not the committee wanted the airlines to just pass those fees through to the consumer, or absorb those costs. And, Mr. President, there was no provision that the hundreds of millions of dollars raised through these so-called user fees would in any way benefit those paying them. There is no assurance that these funds would be used to improve aviation safety, to expand airport capacity, or to improve the service airline customer receive.

In spite of the many problems with this slot fee proposal, procedural limitations make it difficult to remove the provision from the Senate reconciliation bill. That would require an offset, which could face problems of germaneness. However, the outlook in conference is more promising for those of us who oppose this provision. There is opposition to this proposal among many of our House colleagues. In addition to the concerns about the discriminatory nature of these fees, they believe this is really not a user fee, but a tax.

This matter deserves fuller consideration than it has received to date. The conference with the House will provide a means for review and reconsideration of this proposal. It is the hope of this Senator that the conferees will recognize the problems with this proposal, and not include it in the conference version of reconciliation.

REMOVAL OF THE LOW-INCOME AIDS TREATMENT ASSISTANCE PROGRAM ON PROCEDURAL GROUNDS

Mr. KENNEDY. Mr. President, I understand the parliamentary situation that we face on reconciliation but I regret to have to remove the Low-Income AIDS Treatment Assistance Program. This program not only provides life sustaining therapeutics to individuals who face both poverty and death, but also advances our public health effort to bring the AIDS epidemic under control. It is clear to public health officers across this country, and to the Labor Committee, that the most compelling incentive for individuals to step forward for HIV testing and counseling is the availability of medical interventions which have been proven to extend life and reduce suffering. This program creates such incentives for low-income individuals for whom available treatments would not otherwise be a realistic option.

The authorization begins a process of cost sharing with States with a significant incidence of AIDS. It will also gather important program data upon which we can make future policy determinations. This program enjoys broad bipartisan support and I am hopeful that it will be swiftly enacted in the days ahead.

I thank the ranking minority member of the Labor Committee for his ongoing support for sound AIDS policy, and all of the other Members of this body who have rallied for this program. In accordance with the wishes of the leadership, I will support removing the Low-Income AIDS Treatment Assistance Program from the reconciliation package on purely procedural grounds, in order to avoid sequestration. Nevertheless, it is my hope to move this critical program forward with all deliberate speed.

I ask that the dear colleague letter concerning this program and the letters of support from a wide array of public health, religious, and governmental organizations be inserted in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 2, 1989.

DEAR COLLEAGUE: We write to express our support for the inclusion in the FY '90 Labor/Health and Human Services Appropriations Conference Report of $30 million to extend the Public Health Service grant program to states for AIDS treatment assistance. This program does more than make life prolonging therapies available to low income individuals with HIV disease, it also helps to bring the AIDS epidemic under control.

The availability of effective treatments for HIV is the most compelling incentive for individuals to step forward for HIV counseling and testing. By providing access to treatment, caregivers and public health officials gain a crucial opportunity to deliver AIDS education that has been demonstrated to facilitate behavior change and reduce transmission of the AIDS virus.

Among the many diseases which confront us, HIV is unique because it is both lethal and transmissible, through sexual contact, sharing of needles, and from mother to newborn. AIDS was effectively non-existent in our nation a decade ago and today directly jeopardizes a million Americans. Rationing access to treatment for HIV disease based on the patient's ability to pay would ultimately result in more Americans unknowingly becoming infected—thus increasing the human and fiscal toll taken by AIDS.

Providing federal funds to assist low-income individuals obtain treatment for AIDS and HIV disease is not just an act of compassion, it is a key part of the public health strategy to end this epidemic. We urge you to actively support both funding

and renewed authorization for this program.

Sincerely,

Edward M. Kennedy, Orrin G. Hatch, Joseph Biden, Bob Packwood, Tim Wirth, Carl Levin, Chuck Robb, Frank R. Lautenberg, Pete Wilson, Alfonse D'Amato, Lloyd Bentsen, Spark Matsunaga, John H. Chafee, Patrick Leahy, John F. Kerry, Claiborne Pell, Howard Metzenbaum, Herb Kohl, Joseph I. Lieberman, John Glenn, Bill Bradley, Barbara A. Mikulski, J. Bennett Johnston, Terry Sanford, Paul Simon, Donald Riegle, Slade Gorton, Christopher Dodd, Alan Cranston, Paul Sarbanes, Jim Jeffords, Daniel Patrick Moynihan, Nancy Landon Kassebaum.

AN URGENT MESSAGE TO THE PRESIDENT AND MEMBERS OF CONGRESS FROM STATE COMMISSIONERS OF HEALTH

Please Don't Turn Your Backs "I want all our citizens with HIV infection to know that we are in this fight with them all the way. We are on their side, doing everything we can. We will not turn our backs."—Louis W. Sullivan, M.D., Secretary of Health and Human Services, May 6, 1989.

In recent weeks federally financed research efforts have yielded breakthrough information in the fight against AIDS. In many people who have no symptoms, but who are infected with HIV, the underlying cause of AIDS, early treatment with the drug AZT has been shown to delay the onset of AIDS and to enhance both length and quality of life. The news augments an earlier announcement that the preventive use of the drug pentamindine in aerosol form can forestall the pneumonia that has been the principal cause of AIDS-related hospitalization and death in the United States. For the million or more Americans infected with HIV, this is a time of hope. For too many of them this hope will never be realized—without your help.

Access to treatment will buy precious time as scientists continue to search for even more effective therapies. Failure to guarantee access to treatment will result in needless suffering.

The availability of treatment provides a new opportunity to slow the spread of HIV infection. Those who received ongoing treatment will be in close contact with clinicians and counselors who can help them make profound behavioral changes necessary to interrupt the spread of HIV. Men, women, and adolescents will be given a new reason and new support for considering the importance of prevention.

Developing outpatient services now will enable us to conserve scarce medical resources. If adequate ambulatory treatment is available, unnecessary and costly hospital stays can be reduced.

Congress can act now. The Congress should renew and broaden the drug subsidy program due to expire on September 30. The program was first enacted as an emergency measure two years ago to ensure access to AZT for people with full-blown AIDS. As the recent studies have demonstrated, hundreds of thousands more Americans can now benefit from early drug therapy.

This is an epidemic. It requires national leadership. As Commissioners of Health, concerned about AIDS, we see an unparalleled opportunity for bold policies that can match the strides of science.

COMMISSIONERS OF PUBLIC HEALTH

Alabama: Claude Earlfox, M.D., M.P.H.
Alaska: Elizabeth Ward
Arizona: Glyn Caldwell, M.D.
Arkansas: M. Joycelyn Elders, M.D.
Colorado: Thomas Vernon, M.D.
Connecticut: Frederick Adams, D.D.S., P.H.
Delaware: Lester Wright, M.D., M.P.H.
Georgia: James Alley, M.D.
Hawaii: John Lewis, M.D.
Illinois: Bernard Turnock, M.D.
Indiana: Woodrow Meyers, Jr., M.D.
Kansas: Charles Konigsberg, M.D.
Kentucky: Carlos Hernandez, M.D., M.P.H.
Louisiana: David Ramsey.
Michigan: Raj Wiener.
Minnesota: Sister Mary Madonna Ashton
Mississippi: Alton Cobb, M.D., M.P.H.
Missouri: Robert Harmon, M.D.
Montana: Donald Pizzinni, M.E.S.
Nebraska: Greg Wright, M.D.
Nevada: Joseph Jarvis, M.D.
New Hampshire: William Wallace, Jr., M.D.
New Jersey: Molly Coye, M.D.
New York: David Axelrod, M.D.
North Dakota: Robert Wentz, M.D.
Ohio: Ronald Fletcher, M.D.
Oklahoma: Joan Leavitt, M.D.
Oregon: Kristine Gebbie, R.N.
Pennsylvania: N. Mark Richards, M.D.
South Carolina: Michael Jarrett.
South Dakota: Charles Anderson, Ed.D.
Tennessee: Richard Light, M.D.
Texas: Robert Bernstein, M.D.
Utah: Sheldon Elman.
West Virginia: George Lilly, Jr., Ed. D.
Wisconsin: George MacKenzie.
Wyoming: Larry Meuli, M.D.

NATIONAL COMMISSION ON AIDS

STATEMENT ON THE FISCAL YEAR 1990 APPROPRIATIONS

We, the Members of the National Commission on Acquired Immune Deficiency Syndrome (AIDS), strongly support the increased in AIDS funding endorsed by both Houses of Congress and the Administration. While we believe that much work remains to secure adequate funding for the national battle against AIDS, we also recognize the fiscal challenges facing the Congress.

We are particularly pleased that the Senate Committee on Appropriations has increased the total AIDS budget to accommodate humane and cost-effective programs designed to meet the burgeoning care needs resulting from the HIV epidemic. The Congress made clear the priority it places on the health care needs of people with AIDS and HIV in the AIDS legislation that was unanimously approved last fall. Being able to provide access to lifesaving medical treatment to those who face poverty and death is not only a compassionate response to the crisis but a sound public health strategy for bringing the epidemic under control. The most compelling incentive for individuals to step forward for HIV counseling and testing is the availability of effective treatment and appropriate medical care.

The Commission is most invigorated by the task of advising both the Administration and the Congress. It is a responsibility that we accept with great determination. Given the gravity of the HIV epidemic, we are fortunate to have an abundance of sound data on which to base our public health policy decisions. With this in mind, we urge the Congress to be deliberative in its policy-making processes and to resist fragmented approaches to public policy via amendments to the FY '90 Appropriations bill.

The National Commission on AIDS stand ready to review and comment on proposals under consideration by the Congress for addressing the challenges presented by the HIV epidemic.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 12, 1989.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The American Medical Association understands that you have proposed a mechanism for the federal funding of AZT. This proposal would provide grants to states so that the cost of AZT could be covered for certain AIDS patients.

As you know, the AMA previously has expressed support for federal funding of AZT for AIDS patients. Recently reported results at the Fifth International Conference on AIDS add to the evidence that the survival experience of AIDS patients taking AZT significantly improves.

The existing temporary funding scheme for AZT has reached the brink of termination on several occasions. This situation is unfortunate for the AIDS patients who would be devastated without continued access to AZT.

The AMA supports your efforts to include a longer-term solution to the problem of funding AZT treatment as part of reconciliation legislation. Your leadership and initiative on this and other AIDS issues is to be commended.

Sincerely,

JAMES H. SAMMONS, M.D.

THE UNITED STATES CONFERENCE OF MAYORS,
Washington, DC, July 18, 1989.

Senator EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of The United States Conference of Mayors, I am writing to inform you of our nation's cities full support for a three year authorization for the Low Income Treatment Assistance Program for AIDS/HIV treatment assistance, and to commend you for your leadership on this issue. Over 250 mayors met last month in Charleston and passed a policy resolution in support of early intervention for the treatment of HIV infected persons. I have enclosed a copy of our policy for your review.

As you know, in the early years of the battle against AIDS, prevention education was the sole tool available to combat this disease. Now, however, with promising new drugs such as AZT and aerosolized pentamidine, hope is available for those infected with HIV, if they can afford the costly treatments.

The funding Congress has twice provided for the AZT treatment program has been enormously helpful in assisting low income persons to obtain this life prolonging treatment. Early indications for the success of aerosolized pentamidine are even more promising in treating pneumocystis pneumonia, the most common killer of those with AIDS. Increased access to these drugs will enable HIV infected persons to remain healthy—avoiding costly hospital care which is already straining the budgets of federal, state and local governments.

It is the Conference of Mayors' belief that the Low Income AIDS/HIV Treatment Assistance Program would be best retained as

a solely federal program. Establishing a state option to "opt out" of the federal-state matching requirement would shift the financial burden of the program to cities—the level of government least able to absorb these added costs or raise moneys in support of the program. Such a move would be an unprecedented shift from the established federal-state partnership in financing health care in America.

As you are well aware, the vast majority of AIDS cases to date occur in our major cities. Our mayors find themselves on the front line of this disease, with local government bearing a significant financial proportion of this *national* epidemic. The Low Income AIDS/HIV Treatment Assistance Program should remain as it was originally intended: a clear federal commitment to dealing with a national health crisis that is overwhelming the capacity of state and local resources.

The U.S. Conference of Mayors is very supportive of your efforts to authorize the Low Income Treatment Assistance Program. We look forward to working with you to ensure that treatment for HIV infection and AIDS is made available to all who need it. Please do not hesitate to call Richard D. Johnson, Assistant Executive Director, at 293-7330, if you or your staff have any questions or if we can be of any assistance to you.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH,
July 17, 1989.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 24 deans of the schools of public health, I wish to reaffirm our support for a provision that would facilitate access to drugs for low income persons with HIV infection. As you know well, such funding expires September 30, and the sooner the issue is addressed, the more effectively states can plan for therapies. We, therefore, support you in your efforts to make such provision as soon as possible in the Congressional legislative season.

Sincerely,

D.A. HENDERSON, MD, MPH,
ASPH President and Dean, School of Hygiene and Public Health, The Johns Hopkins University.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH, LIST OF DEANS, JULY 1989

Dean Juan Navia (Acting), School of Public Health, University of Alabama-Birmingham, 305 Tidwell Hall, Birmingham, Alabama 35294 (205) 934-2288.

Director Norman A. Scotch, School of Public Health, Boston University, 80 East Concord Street, A-407, Boston, Massachusetts 02118-2394 (617) 638-4640

Dean Robert C. Spear (Acting), School of Public Health, University of California-Berkeley, 19 Earl Warren Hall, Berkeley, California 94720 (415) 642-2523

Dean A.A. Afifi, School of Public Health, University of California-Los Angeles, Center for Health Sciences, Rm. 16-035, Los Angeles, California 90024 (213) 825-6381

Dean Allan Rosenfield, School of Public Health, Columbia University, 600 West 168th Street, New York, New York 10032 (212) 305-3929

Dean Harvey Fineberg, School of Public Health, Harvard University, 677 Huntington Avenue, Boston, Massachusetts 02115 (617) 732-1025

Dean Jerrold M. Michael, School of Public Health, University of Hawaii, 1960 East-West Road, Honolulu, Hawaii 96822 (808) 948-8491

Dean Jacob A. Brody, School of Public Health, University of Illinois at Chicago, Health Sciences Center, P.O. Box 6998, Chicago, Illinois 60680 (312) 996-6620

Dean Donald A. Henderson, School of Hygiene and Public Health, The Johns Hopkins University, 615 North Wolfe Street, Baltimore, Maryland 21205-2179 (301) 955-3540

Dean Edwin Krick, School of Public Health, Loma Linda University, Loma Linda, California 92350 (714) 824-4578 or (800) 854-5661

Dean Stephen H. Gehlbach, School of Public Health, 108 Arnold House, University of Massachusetts, Amherst, Massachusetts 01003-0037 (413) 545-1303

Dean June Osborn, School of Public Health, University of Michigan, 109 South Observatory Street, Ann Arbor, Michigan 48109-2029 (313) 763-5454

Dean Robert L. Kane, School of Public Health, University of Minnesota, A-304 Mayo Memorial Building, Minneapolis, Minnesota 55455-0318 (612) 624-6669

Dean Michel A. Ibrahim, School of Public Health, University of North Carolina, Campus Box 7400, Rosenau Hall, Chapel Hill, North Carolina 27599-7400 (919) 966-3215.

Dean Allen C. Meadors (Acting), College of Public Health, University of Oklahoma, P.O. Box 26901, Oklahoma City, Oklahoma 73190 (405) 271-2232

Interim Dean Thomas Detre, Graduate School of Public Health, University of Pittsburgh, 111 Parran Hall, Pittsburgh, Pennsylvania 15261 (412) 624-3000 or 624-2396

Dean Juan Silva-Parra, School of Public Health, University of Puerto Rico, G.P.O. Box 5067, San Juan, Puerto Rico 00936 (809) 758-2525 x 1402

Director F. Douglas Scutchfield, Graduate School of Public Health, San Diego State University, San Diego, California 92182-0405 (619) 594-6317 or 594-4239

Dean Winona Vernberg, School of Public Health, University of South Carolina, Columbia, South Carolina 29208 (803) 777-5032

Dean Peter J. Levin, College of Public Health, University of South Florida, MHH-104, 13301 Bruce B. Downs Blvd., Tampa, Florida 33612-3899 (813) 974-3623.

Dean Palmer Beasley, School of Public Health, University of Texas, Health Science Center at Houston, Reuel A. Stallones Building, P.O. Box 20186, Houston, TX 77225

Dean J.T. Hamrick (Acting), School of Public Health and Tropical Medicine, Tulane University, 1430 Tulane Avenue, New Orleans, Louisiana 70112 (504) 588-5397

Dean Gilbert S. Omenn, School of Public Health and Community Medicine, University of Washington, SC-30, Seattle, Washington 98195 (206) 543-1144

Chairman Burton R. Singer, Department of Epidemiology and Public Health, Yale University, School of Medicine, P.O. Box 3333, 60 College Street, New Haven, Connecticut 06510 (203) 785-2867

Dean Haroutune K. Armenian, Faculty of Health Sciences, American University of Beirut, Beirut, Lebanon (Affiliate Member).

Eugene J. Gangarosa, Director, MPH Program, Division of Public Health, Emory University, 1599 Clifton Road, Atlanta, Georgia 30329 (404) 727-7806 (Affiliate Member)

Dean David Carpenter, School of Public Health, SUNY at Albany, Tower Building 2523, Empire State Plaza, Albany, New York 12237 (518) 473-7553 (Affiliate Member)

JULY 19, 1989.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We, the undersigned denominational and interfaith agencies, thank you for your leadership in the passage of S. 586 which authorized a six month extension of federal subsidies to provide the life saving drug AZT to low income persons living with AIDS.

The effectiveness of this particular treatment has been well documented in scientific literature, but is dependent on regular, continuous prescribed use. Its availability for low income persons, however, has been equally dependent on short term appropriation authorizations. While certainly not a permanent solution, a longer term effort is needed to ensure persons living with AIDS that they at least can depend on the availability of AZT for the course of their treatment.

In addition, with the emergence of other forms of treatment for HIV infection and AIDS, there needs to be a mechanism for states and the federal government to provide a more stable source of support for such treatment to low income persons with AIDS.

It is our understanding that the Low Income AIDS HIV/Treatment Assistance Program could provide this increased assurance. This proposal calls for the authorization of a 36 month, interim AIDS/HIV treatment program to be funded at $30 million in FY 90 with similar amounts in the remaining years. The program would be administered by the Health Resources and Systems Administration with a 50/50 split of cost between the federal government and the states.

It is essential that the appropriate federal agencies take what they have learned from the success of the AZT authorization extension and apply it to other life saving treatments. With the availabiliy of additional treatments to low income persons will come additional benefits, not only to those receiving the treatments, but to society as well. Many of the new treatments, in particular aerosolized pentamidine, have been proven effective as a preventative agent in the treatment of pneumocystis pneumonia. This particular opportunistic infection lead to the death of over 17,000 persons last year. At the current time this life perserving treatment is unavailable to thousands of persons with AIDS because no mechanism such as the AIDS Treatment Program is in effect. This program should be targeted at the most needy. 85% of persons with AIDS currently receiving treatments like AZT have incomes below 200% of the poverty level. These persons should be those most eligible for such a program.

While we are well aware that this type of effort will not provide a permanent solution to the ongoing financial and treatment needs of low income persons with AIDS, it is a dramatic step forward. We support your continuing efforts to bring this type of essential health care to persons with AIDS and know that we will urge your fellow

members of Congress to support this measure as well.

Sincerely,

Kenneth T. South, Public Policy Advocate, AIDS National Interfaith Network.

Jim Matlock, Director, Washington Office, American Friends Service Committee.

Benita Gayle-Almelah, American Jewish Committee.

Silly Timmel, Director, Washington Office, Church Women United.

Ruth Flower, Friends Committee on National Legislation.

Joseph R. Hacala, S.J., Director, National Office, Jesuit Social Ministries.

Donna T. Morton Stout, JD, M.Div., Associate General Secretary, Issues Development and Advocacy Unit, The United Methodist Church.

Mary Cooper, National Council of the Churches of Christ in the U.S.A.

Mary Jane Patterson, Director, Washington Office, Presbyterian Church, U.S.A.

Rabbi Lynne Landsberg, Religious Action Center of Reform Judaism.

Jay Lintner, Director, Washington Office, Office for Church in Society, United Church of Christ.

Robert L. Alpern, Director, Washington Office, Unitarian Universalist Association of Congregations.

Father Robert J. Brooks, Washington Office, The Episcopal Church.

NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.,
Miami, FL, September 17, 1989.

To Whom It May Concern:

At its 20th Annual Convention and Community Health Institute, the National Association of Community Health Centers has passed the following resolutions, developed by the AIDS Task Force and approved today by the NACHC House of Delegates:

1. As a major provider of primary care for a large percentage of our population nationally, community health centers are already confronting and accepting the responsibility for the care of significant numbers of HIV-infected individuals.

It is crystal clear that the epidemic which is now sweeping our country will not be confined to the poor, to the IV drug abuser, the homosexual, or the transfusion recipient.

HIV infection will spread throughout the entire population. There is no family that is immune. This disease now threatens not only our lives but the health care delivery "non-system" on which all of us depend.

The challenge posed by HIV infection presents a crisis which must be faced squarely now if we are going to survive. It is incumbent upon all that we maintain our comprehensive approach to health care which includes all health services: disease prevention and health promotion for our entire population, to include perinatal, pediatric, adult and geriatric care.

In a society which has homelessness, substance abuse, violence, racism and is closer to collapse than we care to realize, it is important that we now use the HIV epidemic to bring us together. If we fulfill our primary care mission as was the original intent, we can improve our health care overall, and end the categorical approaches and the attendant waste and duplication which continue to plague us.

The National Association of Community Health Centers must bring the collective weight of our communities to strengthen the existing coalition, and clearly establish its leadership profile and begin to coordinate a national effort to fight AIDS.

2. The recent announcements with reference to the new uses of AZT are both welcome and frustrating: welcome because they bring hope and the promise of longer life to a previously doomed population; frustrating because the drug AZT is costly and out of the reach of most community health center users.

We call upon our national association to lead the fight to make AZT and all other effective therapeutic measures available, not just to the affluent, but to all members of our society.

To that end we call on our government to use its inherent powers to bring the new medicines to the population whose lives depend on them. AZT is our immediate goal and we need it now.

JOHN HOLLOMAN, M.D.,
Chairman, AIDS Task Force.
ROLAND J. GARDNER,
President.

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,
Washington, DC, July 12, 1989.

DEAR SENATOR: The promising news about early intervention for people with HIV infection, as well as therapeutics for people with AIDS, is tempered by a policy challenge to find a way to finance the care and treatment theoretically available but realistically unaccessible.

Two years ago, the Senate passed a special measure with bi-partisan support to provide financial assistance to people with HIV infection and related diseases in order to purchase drugs. At the time, AZT was the newest and most promising drug, but its price was virtually unaffordable for most Americans. Since that original program, Congress has supported two extensions with a promise to enact a more permanent and equitable program.

We are writing to urge your support for a three year authorization on a bill to provide financial assistance to people with HIV infection for the purpose of purchasing life extending medical therapies and treatments. This program would be designed to assist low income individuals and should include both federal and state matching funds. We believe that such a program is in keeping with our nation's commitment to extend the productive lives of those who are HIV infected, as well as meeting the equity concerns of a public health epidemic.

Currently, funds avaiable from the federal government will expire on September 30, 1989. Without a new authorization and corresponding appropriations, thousands of Americans will be faced with the cruel dilemma of treatment vs. poverty or death. There is much to be proud of in our scientific advances of late, but these advances are truly meaningless without the opportunity for people to access the new treatments and therapies.

We look forward to your support of this worthwhile program.

Sincerely,

AIDS Action Council.
AIDS National Interfaith Network.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of University Affiliated Programs.
American College Health Association.
American Nurses' Association.
American Psychological Association.
American Public Health Association.
American Red Cross.
Americans for Democratic Action.
American Foundation for AIDS Research.
American Jewish Committee.
American Medical Students Association.
Center for Population Options.
Chronic Fatigue Syndrome Information Institute, Inc.
City of New York.
Human Rights Campaign Fund.
Legal Action Center.
National AIDS Network.
National Association of Counties.
National Association for Home Care.
National Association of Public Hospitals.
National Association of Social Workers.
National Council on La Raza.
National Gay and Lesbian Task Force.
National Hospice Organization.
National Minority AIDS Council.
National Network of Runaway and Youth Services.
National Puerto Rican Coalition.
National Women's Health Network.
Parents/Friends of Lesbians and Gays
Rainbow Lobby.
United Food and Commercial Workers International Union.

REGARDING CFC REGULATORY PROVISIONS

Mr. BAUCUS. Mr. President, many of my colleagues have inquired about provisions of the reconciliation bill adopted by the Environment and Public Works Committee with respect to regulation of chlorofluorocarbons or CFC's. I will take a few moments to respond to those inquiries.

The stripped down version of the reconciliation bill we are considering does not include parts A and B of the Environment Committee's legislation. Those are the parts that include a statutory phaseout of the production, distribution and importation of ozone-depleting chemicals and provided for a methane study.

It is my view, and that of many of my colleagues on the committee, that those provisions are not extraneous within the meaning of the Byrd rule which restricts consideration of non-budgetary matters on reconciliation. However, the package before us does not include the CFC phaseout and we do not intend to offer amendments restoring it to this bill.

CFC legislation has been, and remains, a top priority of the Environment and Public Works Committee. Over the course of the past 3 years the Subcommittee on Environmental Protection has held 10 hearings on the subject of ozone depletion and global climate change. While implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer represents a major step in curbing production and use of ozone-depleting substances, it is my firm belief that additional legislative controls are needed.

The severity of the problem was the subject of a Washington Post article last Friday, October 6. The article describes the scientific assessment of the seasonal hole in the ozone layer over Antarctica for this year. NASA scientists estimate that this year's hole covers 10 million square miles, with

ozone depletion occurring at the rate of 1.5 percent per day. It is believed that the ozone destruction that occurs this year will be similar to that recorded in 1987 when nearly 50 percent of the Antarctic ozone layer was destroyed.

While the legislation reported by the committee was criticized by some for not going far enough, and others for being too stringent, I believe that it provides a necessary and fair approach to eliminating the most destructive chemicals from the environment in the shortest timeframe. As the single largest producer and consumer of CFC's and other ozone-depleting chemicals, the United States has an obligation to act as quickly as possible. Therefore, it is my intention to push for action on CFC legislation in the near future.

Finally, I'd like to clear up some basic misconceptions about the legislation and the committee's actions. Opponents of the CFC subtitle have argued that it somehow materialized out of thin air and that the committee short-circuited conventional legislative procedures. Nothing could be further from the truth. As noted previously, the committee has held exhaustive hearings on the subject. My distinguished colleague from Rhode Island, Senator CHAFEE, and I sponsored legislation both last Congress and this year on the issue. The two bills that formed the basis of the reconciliation piece were the subject of a hearing held by the Environmental Protection Subcommittee in May.

The fact that the committee recommended CFC legislation as part of reconciliation is consistent with the budget summit agreement and a proposal included in the President's budget for the coming year. The President explicitly proposed capturing the market value for limited rights to produce CFC's in fiscal year 1990.

I will not consume more of the Senate's time on this matter today. However, I want to stress that the absence of CFC control provisions in the reconciliation bill does not signify the end of the matter. We will bring such legislation before the Senate in the near future.

RECONCILIATION FY 1990 BUDGET RESOLUTION

Mr. GRASSLEY. Mr. President, yesterday the Senate Budget Committee voted against this reconciliation package by a vote of 9 to 6. I voted no.

Since that vote, Mr. President, the reconciliation bill has been transformed from a Christmas tree free-for-all to a responsible deficit-reduction measure.

The purpose of reconciliation is to reduce the deficit. It is not intended as a vehicle for pet legislation, particularly when that legislation has not undergone public hearings; and particularly when the cost of these pet programs will mushroom in the out years.

In my view, this bill now more resembles a clean deficit-reduction measure. It is consistent with the instructions of the budgt resolution passed in May which I supported.

I would also indicate, Mr. President, that I am a strong supporter of the capital gains tax rate cut, and I regret that we did not have an opportunity to support it as part of reconciliation. Nonetheless, I intend to support that provision on the next possible vehicle in the weeks ahead.

Mr. President, I wish to commend the efforts of the Senate leaders—on both sides of the aisle—to rein in the unbridled process that led to this reconciliation hodgepodge. I only regret that this herculean effort did not take place 3 months ago. I urge the passage of this bill. Thank you, Mr. President.

BUDGET RECONCILIATION

Mr. KERRY. Mr. President, I applaud the patient and persistent efforts of the leadership to produce a budget reconcilation resolution that maintains the integrity of the congressional budget process.

Like many of my colleagues, I realize how painful it is to have programs I care deeply about for the constituents in Massachusetts not included in this resolution. However, I think it is much more important that the reconciliation process not be abused or misused.

Like other of my colleagues, I expect to fight for items important to Massachusetts on other pieces of legislation that will not harm the reconciliation process.

As I stated clearly as one of the early sponsors of Gramm-Rudman, I believe it is incumbent upon the Congress to enact a responsible budget process. And part of a responsible budget process is the maintenance of the integrity of the reconciliation process.

Therefore, I applaud the leadership for their efforts to ensure that the integrity of the process is maintained and for having the courage and wisdom to present the Senate with a product that strengthens our budgeting process.

Mr. D'AMATO. Mr. President, I support the efforts of the bipartisan leadership to regain control of the budget reconciliation process. In particular, I applaud bringing the tax writing process out of the back room and out from behind the protection of reconciliation. While I lament the demise of some very important and meritorious provisions that were in this bill, I accept the wisdom of the leadership and accept that these provisions must await another day. And I assume that this day will come in this session of this Congress.

I will not attempt here to identify all of the important and meritorious provisions that were in this bill and are needed for the well-being of millions of Americans, including many in my State of New York. Mr. President, tax provisions for group legal services, targeted jobs tax credits, mortgage revenue bonds, low-income housing credits, employee provided educational assistance and small issue IDB's must be enacted this year or these provisions will expire. Obviously, we need a tax bill this year.

Mr. President, the small businesses of America need the repeal of section 89, the monster that the Congress with good intentions created in 1986. They also need the 25-percent deduction for medical insurance of self-employed individuals. Again, we need a tax bill this year.

The lamentable condition of Lake Onondaga near Syracuse, NY, needs the attention of this body to reclaim this wonderful natural resource. Many, many additional important matters must be addressed. I am hopeful that this will be a productive session of Congress which deals with each of these matters in the studious manner which they deserve and which the Senate can be proud of.

I should not overlook many meritorious provisions which remain in this bill. We have taken some important steps toward eliminating some of the bias in the Tax Code in favor of misuse of high-yield debt financing. This is important and it should become law as part of reconciliation.

Finally, I will address an issue that should and hopefully will be resolved during subsequent legislation this year. As my colleagues are aware, the Tax Reform Act of 1986 was designed to remedy the allegation that the prior tax system was unfair and exceedingly complex. After extensive review of the then existing structure, the Congress enacted a broad and comprehensive reform of the tax system. The act provided for the reduction of tax rates through base broadening and a strengthening of the alternative minimum tax [AMT]. While the alternative minimum tax has proved to be an effective means for ensuring that all taxpayers, corporate and individual, pay taxes on their economic income, the provision has significant design shortcomings and has produced a variety of inequitable and unintended consequences. One of the more obvious and egregious examples is the so-called book backstop alternative for calculating AMT depreciation.

Under current law, corporations are subject to an alternative minimum tax which is payable to the extent that it exceeds the corporation's regular tax. The tax is imposed at a flat rate of 20 percent on alternative minimum tax income in excess of a $40,000 exemption amount. The foreign tax credit is allowed against the minimum tax and a minimum tax credit is available in certain instances.

29-059 O-90-41 (Pt. 17)

On January 1, 1990, all corporations will be compelled to undertake a series of complex and unnecessary calculations in figuring their AMT income. As currently drafted, every corporation subject to the AMT will compute its tentative minimum tax income and then compare the result with a second calculation called adjusted current earnings [ACE]. The most difficult and complicated adjustment mandated by ACE is the depreciation adjustment which, in effect, requires taxpayers to compare regular straight line depreciation with financial statement or book depreciation. This latter adjustment is very costly to capital intensive companies and discriminates against assets purchased prior to 1990.

The AMT depreciation anomaly is particularly onerous for leasing companies because under Financial Accounting Standards Board [FASB] rules there is no book depreciation permitted on financial leases and the full amount of tax depreciation could then become the ACE depreciation adjustment. While it is clear that the Congress intended to slow down the tax benefits associated with tangible assets, it was neither intended nor assumed that the full amount of the depreciation would become a preference and therefore fully taxable. Finally, Federal tax policy with regard to the change to ACE was based on the presumption that tax rules should be the basis for tax calculations and not the taxpayers book treatment of an item.

Recognizing these problems the Congress attempted to restructure the AMT as part of the Technical Corrections Act of 1988. Unfortunately these improvements were not included as part of the final legislation and we are once again confronted with the uncertainty and inequity created by the so-called book backstop provision. Only this time we are faced with the fast approaching deadline of January 1, 1990.

Mr. President, I applaud what has been accomplished here today and challenge my colleagues to now deal directly and effectively with this unfinished business.

Thank you, Mr. President.

Mr. LEVIN. Mr. President, I will vote for this bipartisan bill.

However, I want to make clear that I support many of the provisions which have been struck. I trust that the Senate will be allowed to vote for them as part of a free standing bill in the near future. I am pleased to hear the chairman of the Finance Committee's commitment to try to do this.

For instance I support the repeal of section 89. I also support the extensions of the targeted jobs tax credit, the low-income housing credit, the mortgage revenue bond program, the employer-provided educational assistance income exclusion, the research and development tax credit, the health insurance deduction for the self-employed, and the renewable energy tax credits among others. I also support the provisions to improve rural health care, to restore income averaging for farmers, to allow retirees to earn more income without losing Social Security benefits, to expand tax credits for child care and to expand the eligibility for individual retirement accounts. I cite these provisions only as examples of the many provisions in the original reconciliation bill which I supported.

Mr. SASSER. Mr. President, I am prepared to yield back all of my time at this point.

The PRESIDING OFFICER. The Senator from Tennessee has yielded back his time. The Senator from New Mexico yields his.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 10:45 the Senate proceed to vote on H.R. 3299 and that the yeas and nays are requested.

The PRESIDING OFFICER. Is there objection to the majority leader's request? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order the clerk will read the bill for a third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order the clerk will report the House reconciliation bill, H.R. 3299.

The assistant legislative clerk read as follows:

A bill (H.R. 3299) entitled the "Omnibus Budget Reconciliation Act of 1989."

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Does the Republican leader seek recognition?

Mr. DOLE. Mr. President, I direct my question for information of Members. I understand that shortly after the vote on reconciliation there will be a cloture vote; is that correct?

Mr. MITCHELL. That is correct. As soon as there is final disposition of this matter, and that will be a very short time, after the vote there will be a cloture vote on the Nicaragua Elections Act, so Senators should remain. There will be a second vote after this vote and then there are several amendments in order and pending to that measure so that we could be here for some time after that with possibility of several rollcall votes thereafter.

If neither of the managers or the distinguished Republican leader has anything further, Mr. President, I remind Senators that the vote will occur at 10:45.

Mr. President, I suggest the absence of a quorum.

Mr. FORD. Will the Senator withhold?

Mr. MITCHELL. Yes, I withhold and I yield the floor.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, the text of S. 1750, as amended, is substituted in lieu thereof, and the House bill is deemed read a third time.

The Senator from Kentucky.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. FORD. Mr. President, my distinguished friend from Maine, Mr. COHEN, said a few moments ago that the crash of the stock market today or the fall of 191 points was because we have not passed the capital gains.

I have not heard that all day. My news and the ticker tape and all that was that this afternoon and middle afternoon, the financial people notified those who wanted to purchase United Air Lines that they could not finance it, almost $7 billion, and that is what caused the huge slide in the last hour, hour and a half.

On June 23, Senator MCCAIN and I introduced a piece of legislation that has now cleared the Commerce Committee. It relates to giving authority to the Secretary of Transportation to be in at the beginning of the leveraged buyouts of airlines.

Now we are getting into a lot of trouble. Foreign airlines are buying a piece of that. They are even structuring the purchase of the type of airlines that are purchased by American airlines. You can look at the recent cancellation of the Airbus and the purchase of Boeing. I do not have any problem with that. But it shows the influence of the foreign air carriers on the American leveraged buyouts.

So I would just like to say to my friends that I am hopeful that this piece of legislation will be brought before the Senate in the next few days, either freestanding or as an amendment to another piece of legislation, so that we can get on with giving the Secretary of Transportation the authority. He went before Northwest. The only leverage he had was to cancel their certificate as a carrier, and he jawboned and got some results. So I think it is time we look at the leveraged buyout situation as it relates to airlines.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the bill and that this unanimous-consent request supersede the prior request with respect to technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

By virtue of the order previously entered, the question now occurs on the passage of H.R. 3299, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] and the Senator from Wyoming [Mr. WALLOP] would each vote "yea."

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—87

Adams	Ford	Matsunaga
Armstrong	Fowler	McCain
Baucus	Garn	McClure
Bentsen	Glenn	Metzenbaum
Biden	Gore	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moynihan
Boschwitz	Gramm	Murkowski
Bradley	Grassley	Nickles
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Heinz	Pell
Burdick	Humphrey	Pressler
Burns	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Johnston	Riegle
Coats	Kassebaum	Robb
Cochran	Kasten	Rockefeller
Cohen	Kennedy	Roth
Conrad	Kerrey	Rudman
Cranston	Kerry	Sanford
D'Amato	Kohl	Sarbanes
Danforth	Lautenberg	Sasser
Daschle	Leahy	Simpson
Dodd	Levin	Specter
Dole	Lieberman	Stevens
Domenici	Lott	Symms
Durenberger	Lugar	Thurmond
Exon	Mack	Warner

NAYS—7

Dixon	Hollings	Simon
Heflin	McConnell	
Helms	Shelby	

NOT VOTING—6

Boren	Hatfield	Wilson
DeConcini	Wallop	Wirth

So the bill (H.R. 3299), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1750 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, is there any time for debate?

Mr. MITCHELL. If I may, this unanimous-consent request has to do with the indefinite postponement of the Senate reconciliation bill. We have just passed the House bill. I renew my request, Mr. President.

The PRESIDING OFFICER. If we can have order in the Chamber so the unanimous-consent request can be heard, the Senate will proceed with its business.

The majority leader has renewed his unanimous-consent request. Without objection, it is so ordered.

Mr. MITCHELL. It is my understanding under the previous order there is no time limitation on debate. Mr. President, I yield to the distinguished Senator from New Mexico.

MOTION TO INSTRUCT

Mr. DOMENICI. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Mexico, Mr. DOMENICI, moves that in relation to H.R. 3299, the conferees be instructed to insist on the Senate amendment and to accept no House language which does not result in savings or in revenue increases, as envisioned by the Budget Act description of reconciliation.

Mr. DOMENICI. Mr. President, I have asked the distinguished majority leader, the chairman of the Budget Committee, and the minority leader, Senator DOLE, and they indicate they concur in that motion.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. SIMON. Parliamentary inquiry. Is this motion debatable?

The PRESIDING OFFICER. This motion is fully debatable.

Mr. SIMON. I will oppose the motion. Let me just point out I voted "no" on the reconciliation. Among other things, there is a fee schedule for five airports in this country, one of which is O'Hare, which will pay half the fees. I, frankly, did not make any amendment, did not make a big issue about this on the floor. I think it is something the conference ought to be able to consider and if this motion is agreed to, we cannot consider it. I think there very well may be other mistakes in this thing.

Mr. MITCHELL. Will the Senator yield?

Mr. SIMON. I will be pleased to yield to the majority leader.

Mr. MITCHELL. The motion to instruct has no binding effect on the conferees. It is an expression of the Senate and the Senate urging that the Senate conferees adhere to the Senate position.

Mr. SIMON. If the majority leader says this is simply a sentimental gesture, then——

Mr. MITCHELL. I do not think I used those words.

Mr. SIMON. May I inquire of the Senator from New Mexico?

Mr. DOMENICI. I might say a motion to strike is clearly in order in conference. I am not suggesting that would not be in order. It seems to me that with an 87-to-7 vote that we ought to buttress our conferees with a statement saying we do not want a bill like the one we just got rid of.

Mr. SIMON. The process I wholeheartedly support, and I thank the Senator from New Mexico, and I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I make a parliamentary inquiry. I understand under the unanimous-consent agreement that we would move immediately to the vote on the cloture motion on the Nicaraguan elections.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Mr. President, I ask unanimous consent to proceed out of order for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. Mr. President, I say to my colleagues before we agree to this motion, it is 11:10 at night on Friday evening. We are about to enter a debate that has matters in it that go beyond just a $9 million appropriation. This is not the time, regardless of where it comes out on this issue, to be debating something of this significance, in my view. I regret we are here at this hour, but this is a matter that could have been decided a month ago with proper consideration.

I just urge, despite the efforts of the majority leader and others, that we reject this motion and defeat the

motion on cloture and debate this on Tuesday, when we come back, or Monday. I will be glad to come back on Monday and debate all day and vote on Tuesday. To debate at 11:10 on a Friday night something of this import is a mistake. The Members are tired and they want to get back to their States. It is a mistake.

We ought not invoke cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Mr. President, free and fair elections in Nicaragua are an important goal, one that is in the national security interests of the United States, and the interests of the people of Nicaragua and the entire hemisphere. Because of the importance of the question of how best to assure this, it is my belief that this late hour—nearly midnight—is not the appropriate time to begin and complete this debate.

Mr. MITCHELL. Mr. President, I ask unanimous consent to address the Senate for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the unanimous-consent agreement was entered into yesterday. The Senator from Connecticut was present on the floor when it was entered into, and I said at that time that we would move to cloture after acting on the reconciliation bill. I predicted that it would occur late tomorrow night, meaning tonight. Rarely have my predictions been so accurate. No one objected at that time. We had 2 hours of debate yesterday on the subject. Everyone had a chance to express their views. It was understood and accepted by everyone that the cloture vote would occur late tonight. This is not the first, and I regret to advise Senators it will not be the last time we debate an issue at 11 o'clock at night. Therefore, having entered into an agreement with the full, open——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MITCHELL. I ask for 30 more seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. With the full, open and informed consent of every Senator including the principal participants in this issue, I see no basis now for not proceeding. We agreed to proceed. We anticipated we would proceed at this time. We said we would proceed at this time, and I suggest we proceed at this time.

Mr. LEAHY. Mr. President, as manager of the bill, I ask unanimous consent that I be allowed to proceed for 45 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as manager of the bill, I am prepared to go forward, just so all Senators understand, however they vote. If we get cloture, we will complete it, I understand from the majority leader, tonight but that means a number of votes and my estimate would be at least 5 hours, possibly 7 hours, but it will be real debate because the matters will come close together if we have cloture tonight. All Senators should be aware of that. I am perfectly prepared to go forward, but that is really what the schedule will be.

Mr. STEVENS. Regular order.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

The Senate resumed consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, following the disposition of the reconciliation bill, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua. Signed by 18 Senators as follows:

George J. Mitchell, Bob Kerrey, Harry Reid, Bob Dole, John H. Chafee, Bob Kasten, Terry Sanford, T. Daschle, Dennis DeConcini, Frank R. Lautenberg, Connie Mack, Richard G. Lugar, John Heinz, Mitch McConnell, Bill Cohen, Al Simpson, Bill Armstrong, Lloyd Bentsen.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua, be brought to a close. The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—52

Armstrong	Gore	McConnell
Bentsen	Gorton	Mitchell
Biden	Graham	Murkowski
Bond	Gramm	Nickles
Boschwitz	Grassley	Packwood
Bradley	Hatch	Pell
Breaux	Heinz	Reid
Bryan	Hollings	Robb
Chafee	Jeffords	Roth
Coats	Kassebaum	Sanford
Cochran	Kasten	Sasser
Cohen	Lautenberg	Simpson
Danforth	Lieberman	Specter
Dole	Lott	Stevens
Domenici	Lugar	Thurmond
Durenberger	Mack	Warner
Exon	McCain	
Garn	McClure	

NAYS—42

Adams	Fowler	Matsunaga
Baucus	Glenn	Metzenbaum
Bingaman	Harkin	Mikulski
Bumpers	Heflin	Moynihan
Burdick	Helms	Nunn
Burns	Humphrey	Pressler
Byrd	Inouye	Pryor
Conrad	Johnston	Riegle
Cranston	Kennedy	Rockefeller
D'Amato	Kerrey	Rudman
Daschle	Kerry	Sarbanes
Dixon	Kohl	Shelby
Dodd	Leahy	Simon
Ford	Levin	Symms

NOT VOTING—6

Boren	Hatfield	Wilson
DeConcini	Wallop	Wirth

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

May we have order in the Chamber so the business of the Senate can proceed?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, cloture not having been obtained on this vote, it would be my intention—I note the presence of the distinguished Senator from Iowa on the floor who has been the principal opponent to this measure—to file another cloture petition if we can get agreement; that we would then have a vote on that cloture petition immediately following the caucus on Tuesday as we had contemplated doing earlier this evening but were not able to get agreement on then it is my feeling that if we did not get cloture then, there would be no further effort; if cloture were obtained, that we would then proceed to consider the amendments that have been agreed to, under the prior order,

were in order, had cloture been obtained on this measure.

I inquire of the Senator from Iowa or the distinguished Republican leader, if they wish to comment on that suggestion.

Mr. SABARNES. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. SARBANES. I take it there is a unanimous-consent request that now limits the number of amendments to the measure; is that correct?

Mr. MITCHELL. That is correct.

Mr. SARBANES. I am told that is not correct.

Mr. MITCHELL. It is no longer in effect. It qualified certain specified amendments to be in order if cloture had been invoked, even though the amendments might not otherwise have been germane, had cloture been invoked.

Mr. HARKIN. If I can ask the distinguished majority leader to yield, I want to make it clear—as I know the majority leader knows—to all Senators here this evening, earlier this evening I was asked by the distinguished majority leader if I would be amenable to putting off the cloture vote until 2 o'clock on Tuesday. I said, yes, I would. It was not my intent to have a cloture vote tonight. I agreed to put it off until 2 o'clock Tuesday. It was not this Senator's objection.

Mr. MITCHELL. The Senator is absolutely correct. It was my suggestion as well that we put it off until after the conference on Tuesday, but that consent could not be obtained from all Senators. There was objection to it. Therefore, we had to proceed this evening under the agreement. It was my desire to postpone it until then as well, and the Senator is quite correct, he agreed to it.

Mr. HARKIN. Under the agreement entered into before, that unanimous-consent agreement now has been vitiated by the fact that cloture was not invoked; is that my understanding?

Mr. MITCHELL. I inquire of the Chair as to the accuracy of that assertion.

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

Can the Senator from Iowa repeat his question?

Mr. HARKIN. The unanimous-consent agreement that was entered into pertaining to the cloture vote that was just taken specified certain amendments and individuals who could offer those amendments. Since cloture was not invoked, is that agreement limiting the number of amendments and those individuals who could offer those amendments still in force, or has that agreement that limits the number of amendments and those who can offer those amendments been done away with by the fact that cloture was not invoked?

The PRESIDING OFFICER. The question as stated by the Senator from Iowa would require the answer that the agreement is not vitiated by the failure to invoke cloture.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. HARKIN. Yes.

Mr. LEAHY. Without losing his right to the floor.

Mr. HARKIN. I do not know if I have the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator from Vermont.

Mr. LEAHY. I ask the distinguished majority leader—Mr. President, possibly there is a way to get around the question of what was the agreement or not. I think there are a number of people in this body who voted against cloture tonight, who are perfectly willing to see this matter come to a vote and either to vote for or against it, willing to have a straight up-or-down vote.

Might I ask the distinguished majority leader and the distinguished Republican leader if it might be possible to craft a unanimous-consent agreement here that would say we would start the whole process exactly as we had it here at 2 o'clock, or whatever time we finished our caucuses on Tuesday, and then plan to go straight through until completion?

In other words, we would have a cloture vote at 2 o'clock on Tuesday. If that did not succeed, then that is probably the end of it. But if that succeeded, we could go down to a similar agreement as we had before, until we complete it. I understand that would require setting aside whatever else was pending at that time. But I say to the distinguished leaders on both sides of the aisle that I am perfectly prepared, as a manager of this bill, to go forward at that time. I would assume my distinguished colleague and friend from Wisconsin would be, too. I cannot speak for him on the unanimous-consent agreement, but if we went through the same procedure, we would probably complete it by supper time or so on Tuesday.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. May I make a suggestion which perhaps could enable us all to go home and come back to this another day. I will ask the Senator through the Chair, the Senator from Iowa, if he would be agreeable, if we file another cloture petition this evening, to schedule the vote on that cloture petition at 2:15 p.m. on Tuesday, on the condition that we enter into an agreement which would, as the previous agreement did, qualify for consideration post cloture in the event cloture is then invoked, to certain specified amendments, including an amendment which was listed to be offered by Senator DODD, relative to no funds to the Nicaraguan Government, that would now be listed as an amendment to be offered by the Senator from Iowa?

Mr. HARKIN. If the distinguished majority leader will yield, I still have a question about the process. The amendments that were listed and the agreement entered into pertain to nongermane amendments that would be allowed under post cloture. I inquire of the Chair, is it correct that this agreement in no way limits others who may want to offer germane amendments, post cloture, if cloture is invoked?

The PRESIDING OFFICER. Timely filed germane amendments are not limited.

Mr. HARKIN. Under the unanimous consent proposal agreement proposed by the distinguished majority leader, when would germane amendments have to be timely filed in order to be considered after post cloture, if the cloture vote is to be taken at 2:15 p.m. on Tuesday next?

The PRESIDING OFFICER. Second-degree amendments would have to be filed by 1:15 p.m. Tuesday next.

First-degree amendments would have to be filed by 1 p.m. the next day of session after the motion is filed.

Mr. HARKIN. I assume that Monday would be a day.

Mr. MITCHELL. That is correct, but since it is unlikely we would be in by 1 p.m. Monday, I would propose that we include in the consent request the permission to file first-degree amendments prior to 6 p.m. on Monday.

That would give the Senator and anyone else who wishes to file an amendment ample time to do so. I have not had time to discuss this with the distinguished Republican leader, but I assume that will be acceptable to him.

Mr. HARKIN. We will be in session Monday.

Mr. MITCHELL. We will be in session Monday, but not prior to 2 p.m. I do not want to preclude the Senator.

Mr. HARKIN. My last question to the distinguished majority leader is on the agreement just propounded as to the amendment that was just mentioned, that this Senator would be allowed to offer that either as a first- or second-degree amendment. Is that correct?

Mr. MITCHELL. I am sorry. I did not understand the question.

Mr. HARKIN. On the amendment that is initially going to be offered by Senator DODD——

Mr. MITCHELL. I propose to include that in the Senator's request.

Mr. HARKIN. Would the Senator be allowed to offer it as either a first- or second-degree amendment?

Mr. MITCHELL. This does not limit it.

Mr. HARKIN. It does not limit it.

The PRESIDING OFFICER. The Senators to the left will refrain their conversations so the business of the Senate can go on.

Mr. MITCHELL. Mr. President, will the Senator be agreeable on those terms?

Mr. HARKIN. This Senator will be agreeable.

Mr. MITCHELL. Why do I not propound the request?

Mr. President, accordingly I will propound the unanimous-consent request. If any Senator has objection, he or she may object.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 2:15 p.m. on Tuesday next, a quorum call under rule XXII being waived, the Senate proceed to vote on the motion to invoke cloture on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua; that the following amendments be in order regardless of the outcome of the cloture vote:

An amendment by Senators ADAMS and HARKIN relative to the transfer of this funding to a drug program; an amendment by Senator DODD relative to funding to the National Endowment for Democracy and observer groups; an amendment by Senator HARKIN relative to no funds to the Nicaraguan Government; an amendment by Senator HARKIN to reducing funding and shifting funding to observer groups; and amendment by Senator HARKIN relative to no funds from the National Endowment for Democracy, only in-kind assistance.

I further ask unanimous consent that the time for filing first-degree amendments be extended from 1 o'clock p.m. on Monday, which would ordinarily apply until 6 p.m. on Monday, and I further ask unanimous consent that the amendments listed above, in addition to being in order regardless of the outcome of the cloture vote, could be offered either as first- or second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, add one amendment by Senator DOLE relative to funding of Nicaraguan opposition.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, accordingly there will be no further rollcall votes this evening.

Mr. DOLE. Mr. President, will the Senator yield before everyone leaves?

Mr. MITCHELL. Yes.

Mr. DOLE. We are not going to do any more on this tonight, but I am advised that the Presidents of Guatemala, El Salvador, and Honduras will be writing Ortega to see if they want to extend the registration period. The deadline is October 22.

We are not going to have any registration this Sunday. It will be one additional Sunday. I have prepared a letter and I think everyone will find it to be precisely as it is, it is a letter to Commandante Daniel Ortega, signed by Senators, where we indicate we believe in truly free and fair elections. For this reason we are concerned over the absence of a mechanism for registration of voters living as exiles or refugees in El Salvador, Honduras, and Costa Rica. There are more than 100,000 Nicaraguans who wish to participate in the election, and so forth.

The point is we would like to extend the date for 60 days beyond the October 22 deadline. So I hope that maybe some Members will take a look at this and sign it on the way out. We think a pretty good showing, half or more of the Senators, may have some impact on Daniel Ortega.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my intention, therefore, that the Senate will return to session at not earlier than 2 p.m. on Monday, and we will state the precise time in the closing order; that there will be debate on the constitutional amendment on the flag, but no votes on Monday; and then we will resume action on that measure Tuesday morning, going to this measure Tuesday afternoon.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield for a question?

Mr. MITCHELL. I yield.

Mr. LEAHY. Is it the distinguished majority leader's intention, if cloture is voted on Tuesday then, to stay on this matter until it is completed?

Mr. MITCHELL. Yes, it is.

Mr. LEAHY. I appreciate that. I will tell the distinguished majority leader, even though I oppose the underlying legislation, I absolutely concur with that and I think we should just stay completely through it and finish it by early evening on Tuesday.

Mr. MITCHELL. Mr. President, I thank the Senator.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua.

George J. Mitchell, Bob Kerrey, Harry Reid, Bob Dole, John H. Chafee, Bob Kasten, Terry Sanford, T. Daschle, Dennis DeConcini, Frank R. Lautenberg, Connie Mack, Richard G. Lugar, John Heinz, Mitch McConnell, William Cohen, Al Simpson, Bill Armstrong, Lloyd Bentsen.

Mr. MITCHELL. Mr. President, I ask unanimous consent that, if cloture is invoked on H.R. 3385, the Senate remain on the bill until its disposition notwithstanding any previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

THE 99TH ANNIVERSARY OF DWIGHT D. EISENHOWER'S BIRTH

Mr. DOLE. Mr. President, tomorrow is a special day for my State of Kansas, for the United States, and, indeed, for the free world as we know it today. Tomorrow marks a very special anniversary—a birthday—for a man from Abilene, KS, named Eisenhower.

Eisenhower. It's a name that stands tall among the giants of American history. It is synonomous with courage, vision, and leadership. Few Americans have had such an impact on their nation, let alone the world.

Tomorrow, October 14, is the 99th anniversary of Dwight D. Eisenhower's birth. Although it has been almost three decades since he left office, his standing among our Presidents continues to rise.

In fact, a recent poll of historians puts him in the top 10, behind only Wilson and FDR in this century. Not bad for a small-town boy from Kansas.

Ike has always been a hero to me, but I'm not alone on that score. Generations of Kansans agree, along with millions of others worldwide. He was my commander-in-chief when I enlisted in the Army in December 1942; he was my party's leader when I first ran for office in 1952; and he remains a role model for all those who want to dedicate their lives to public service.

But when you get right down to it, Eisenhower's mark was that of a true

leader, of men in war, of the people of his country, and of all nations that strive for peace. His public career produced some remarkable achievements. Let me cite just a few that were mentioned recently when distinguished Americans were asked what they thought Eisenhower's greatest success was:

Leading the allies to victory in World War II;

Forging the creation of NATO;

Ending the Korean War;

Giving America 8 years of peace and prosperity when he was in the White House;

Exercising real fiscal discipline, as evidenced by his three balanced budgets—that's right, three;

Inspiring the Nation with his integrity, decency, and good will; and

Managing peace in the nuclear age.

There are many other accomplishments that could be cited; creating the Interstate Highway System; establishing NASA; supporting free and fair trade; and demonstrating a commitment to equality with his dramatic action to enforce integration in Little Rock. The list could, literally, go on and on.

Nevertheless, reviewing these achievements is not simply an exercise in nostalgia.

That is why I am honored to serve as Chairman of the National Bipartisan Dwight D. Eisenhower Centennial Commission. Paying tribute to Ike during the coming centennial years affords us a special opportunity to revisit some of the seminal events of our time, and to learn from them. Perhaps the most important part of Ike's legacy to our generation was his unshakable faith in freedom.

He would have relished the vision of this generation of Communist leaders being forced to admit the bankruptcy of their ideology and their policies. He would have been excited by the rapid evolution toward democracy in Poland and Hungary, where people long starved for freedom are now moving rapidly and purposefully to regain control of their own nation.

More than 40 years ago, at the height of the cold war, Ike agreed to meet with a Soviet leader being hailed then for bringing new thinking and openness to his rule over the Soviet empire. In his historic meeting with Nikita Khrushchev, President Eisenhower started the process of summitry not because he believed that the fundamental competition between freedom and communism could be negotiated away; but because of his conviction that—despite the differences in our systems—we shared a common interest in waging that competition in ways that would not lead to nuclear war.

President Reagan and President Bush have learned well the lesson that Eisenhower was teaching. We can deal with our adversaries, through dialog and, above all, through strength.

Ike was not without his faults, of course. But when you add it all up, few leaders are his peer.

After all these years, I still like Ike. So does Kansas. And so does America.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, as we continue to work on the issues of the day, I ask that we not forget that today is the 1,672 day that Terry Anderson has been held in captivity in Beirut.

REMARKS BY ARNOLD I. BURNS, FORMER DEPUTY ATTORNEY GENERAL OF THE UNITED STATES, AT THE BOYS CLUBS OF AMERICA'S ANNUAL YOUTH OF THE YEAR CONGRESSIONAL BREAKFAST

Mr. THURMOND. Mr. President, I recently had the pleasure of serving as co-host for the Boys Clubs of America's annual youth of the year congressional breakfast with Representative STENY HOYER of Maryland. At this breakfast, 5 young men representing the 1,300,000 boys and girls currently served by Boys Clubs of America were honored as "Youth of the Year" finalists.

That morning we had the opportunity to hear a remarkable and inspiring speech by Mr. Arnold I. Burns, former Deputy Attorney General of the United States and a vice president of the board of directors for Boys Clubs of America. With great insight and perspicacity, Mr. Burns addressed the compelling and deadly serious topic of our ravaged inner cities and the despair in which so many young Americans live.

Mr. President, I ask unanimous consent that the text of Mr. Burn's speech be included in the RECORD, and I would respectfully urge my colleagues to turn an attentive eye and ear to his important message as we consider these weighty issues.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY ARNOLD I. BURNS

Good morning, we are gathered here this morning to celebrate and honor five "Youth of the Year" finalists. These outstanding young leaders have performed a wide array of valuable services in their Clubs and communities.

Anthony, James, John, Felix and Brent—I salute you for giving generously of your time, talents and energy to help family, friends and neighbors. I applaud you for your exceptional dedication to high moral principles. You have distinguished yourselves among your peers by exhibiting a strong and healthy attitude toward life and work, and your good deeds have made a vital contribution to the improvement of our society.

How I wish that all young people had such strong and healthy attitudes? And how I wish that good physical and mental health were characteristic of all American society. Unfortunately, this is not the case.

No, I cannot, in good conscience, give a clean bill of health to America. Disease runs rampant in our inner cities. It is a disease of the spirit that cripples and kills.

Our inner cities are plagued by crime, drugs and violence. There is an epidemic of illiteracy, illegitimacy, filth and poverty. And poverty spawns hunger, homelessness, frustration, anger and despair.

Kids growing up in our cities don't know how to break the cycle of poverty, failure and more poverty. They don't know where to turn for help. They need emergency treatment. But who will cure their ills?

Today, I would like to examine the health of America's young people and check their vital signs. As the examination proceeds, I will discuss the symptomology, diagnosis, treatment and prognosis of our inner city boys and girls. So, if you will bear with me while I put on my doctor's uniform, we'll begin this important examination.

(Put on jacket, penlight, tongue depressor, mirror and stethoscope.)

Good morning. I'm Dr. Burns, Chief Internist and Director of Emergency Medicine at D.C. General Hospital.

At 2:03 a.m., a 16-year-old boy was admitted to the hospital by a police officer. The officer found the patient wounded on the street after being caught in cross-fire during a drug deal gone sour.

The patient spoke mostly in Spanish, and Dr. Carmen Rodriguez, a resident here at the hospital, helped me take a brief history.

In taking the history, I learned that the patient has no father and that his immediate family consists of four brothers and sisters who are being raised by his mother. The patient ran away from home when he was 14. He has spent most of the last two years on the streets and is a member of a street gang.

I first examined the puncture wound to the right thigh that the patient received during the gun fight. Bone fragments and tearing of tendons were evident, along with resultant weakness beyond the injury to the lower extremity.

As the examination proceeded, I observed needle marks in both anti-cubital fossa and inflamation and excoriation in the nasal passages indicating heroine and cocaine use. There was also questionable jaundice in the eyes and a fine tremor in the hands.

The patient had old scarring on his back and was missing several teeth. Hospital records obtained when the patient was admitted to the emergency room four years ago indicated that he had been physically abused during childhood. The case had been referred to a social worker at the time, but was never pursued.

The patient weighs 103 pounds and is short of stature—only 5 feet, 2 inches tall. He is thin, and loose musculature of the abdomen raises the possibility of malnutrition.

Hematologic studies indicate an increased MCV (mean corpuscular volume) raising the possibility of ethanol abuse. Chemistries in-

dicate elevated liver enzymes which support this indication and which also strongly suggest hepatitis. I ordered further hematologic studies to rule out the possibility of AIDS.

The patient was then examined by Dr. Greenberg, head of the psychiatric unit, who filed a report indicating severe depression with suicidal tendencies, extremely anxiety, fear and feelings of inferiority. In Dr. Greenberg's opinion, the patient tried to stifle these feelings by using illegal drugs and alcohol. Use of illegal drugs, in turn, explains why the patient was shot in cross-fire during a drug deal and, consequently, why the patient has an injury to the right thigh.

What, then, is the clinical diagnosis of the various symptoms exhibited by the patient? In summary, the diagnosis I believe to be most inclusive and accurate is acute and abject neglect by family and society.

I would like to point out that this diagnosis is not unusual among inner city teenagers. This case is not at all atypical. Today almost two-thirds of all high school seniors have tried illegal drugs. By the 12th grade, 80 percent of all boys and girls are periodic drinkers. Each year, more than 1 million teenagers become pregnant. Remember, more than 14 million youngsters live in poverty.

Acute neglect is a condition that hampers and cripples millions of girls and boys each year. What is my prescription for the ailments afflicting our youngsters? The most successful way to treat them, in my opinion, is membership in a Boys & Girls Club. Clubs provide a secure environment for young people at-risk of drug and alcohol abuse, premature sexual involvement and juvenile crime. By providing a safe place for young people to go, Clubs help disadvantaged boys and girls "beat the streets." Clubs give young people a chance to develop self-esteem and the social skills they need to become a productive members of society.

Most Clubs are located in neighborhoods with drugs, crime and poverty are everyday facts of life. Who belongs to Boys & Girls Clubs? Sixty-six percent of our members come from families earning $15,000 per year or less; 77 percent are from families with three or more children; 51 percent are from minority families; 47 percent are from single-parent families, and 29 percent are from families receiving public assistance. The Club frequently is the only place in the neighborhood where kids can play and learn under the supervision of a trained, professional adult.

Clubs help their members stay out of trouble with the law, and Club staff become "second parents" to many boys and girls who often turn to them for advice and guidance. Boys & Girls Clubs serve over 1 million boys and 300,000 girls in over 1,100 Club units operated by nearly 600 locally-governed organizations. A total of 56,434 Board and program volunteers help to make the Boys & Girls Club Movement work, and 15,525 full- and part-time staff members enable Clubs to provide youth development services on a daily basis. The care, concern and understanding that young people receive from the Club staff foster trust and the development of sound values.

Research supports this mode of treatment. A 1986 survey conducted by Louis Harris and Associates for Boys Clubs of America revealed that nearly 70 percent of all alumni believe they were kept away from drugs and alcohol due to involvement in their Clubs. Three out of four alumni believe their experience at the Club helped them to avoid difficulty with the law. And nine out of 10 alumni feel that being in a Club had a positive effect on their lives, gave them skills for leadership, helped them get along with others, and influenced their success in later life.

Former Club members who felt they had started life with the most obstacles to overcome—blacks, Hispanics, the economically disadvantage and those from tough neighborhoods—gave their Club the most credit for their success as adults.

Yes, the care, concern and understanding that young people find at the Boys & Girls Club cure many ills of our inner cities. These positive qualities lead boys and girls to the threshold of health and strength of character.

What, then, is the prognosis for millions of children suffering from abandonment and neglect? This, my friends, will depend largely upon what we as a nation and as a society choose to do about the situation. The prognosis can be very good if we make the concerns of our young people a national priority. Boys & Girls Clubs already look after 1,300,000 youngsters. By 1991, at the conclusion of our Outreach '91 program, we will be caring for an additional 700,000 boys and girls, bringing the total number of youth served to 2 million.

A good prognosis also requires that we practice preventive and holistic medicine. It is truly said that an ounce of prevention is worth a pound of cure. Our top priority is to expand drug prevention education. Some people foolishly think that the drug problem is a Colombian problem or a Burmese problem or a Laotian problem. It is not. It is an American problem. So long as our citizens are willing to buy and use drugs, we will have drugs reaching our markets. We must—we must—dry up the market. We have got to change our peoples' attitudes about drugs—the way we have about alcohol. We've got to take casual users out of the marketplace by arresting and publicly ostracizing them. And we must instill in our children a full understanding of drugs and offer them a viable, exciting, fulfilling substitute for idleness, drugs and then crime.

Making our young people healthy again is going to take a massive, collaborative effort on the part of many youth service organizations, private enterprise, and government at the city, state and federal levels. Some federal agencies have stepped up to the plate and joined with us in our war on drugs: Terry Donahue of the Office of Juvenile Justice and Delinquency Prevention, Dr. Elaine Johnson of the Office of Substance Abuse Prevention, and Jane Kenney of the Action Agency.

These individuals and agencies have joined and financially supported our efforts in public housing. They have helped provide alternatives, as we convince kids to say "No" to drugs.

The FBI's demand reduction unit has joined forces with Boys Clubs of America to develop after-school initiatives focusing on high-risk youth. We all know this war cannot be won until the demand for drugs decreases. The FBI working with local Boys & Girls Clubs will make a difference.

We need a determined effort to stem the epidemic of despair that plagues America's young people. Happily, Americans know how to come to the aid of each other, and we know how to fight disease when it attacks the health and well-being of our children. If we band together, we can win the war on drugs, we can win the war on poverty, and we can win the war on crime!

Ladies and gentlemen, let me close by reminding you that there is more to medicine than just needles, pills and incisions. Love needs to be a fundamental part of the healing process.

How great it would be if every disadvantaged boy and girl could receive enough love and affection to restore his or her health and vitality. Remember, our children need us. When just one child suffers, the pain is felt by many people. But when millions of children are hurting, our whole nation is at-risk.

Let us not be afraid to show our love and concern, and let us resolve here and now to give more of our time, our talents and our treasure to help our children recuperate and get back on the road to good health. Believe me, your kindness will be repaid many times over. In this way, you, too, can experience some of the same satisfaction that doctors and nurses feel. For when people help others who are injured and who are in need, they also help themselves and all humanity.

Thank you.

CONGRATULATIONS TO COLORADO'S NOBEL PRIZE WINNERS

Mr. WIRTH. Mr. President, I rise today to salute and honor University of Colorado professor, Thomas Cech and University of Colorado medical school graduate, Sidney Altman, recipients of the 1989 Nobel Prize in chemistry.

Their extraordinary studies determining that ribonucleic acid, or RNA, can actively aid chemical reactions, rather than simply serve as a genetic messenger, have become a turning point in studies in chemistry. Their discovery about RNA shattered the long-held belief that biological reactions are always catalyzed by proteins. Since the Cech-Altman discovery, some scientists have speculated that, because RNA can act as a catalyst, it may have been the original life form.

The findings of these devoted researchers have far-reaching implications. Beyond requiring most chemistry text books to be rewritten, the new information about RNA will help other researchers to combat a myriad of viral diseases—from the common cold to AIDS. While clearly I am not a scientist who will use Dr. Cech's and Dr. Altman's discovery as a launching pad to unravel more biological questions, as a Coloradan, I am exceptionally proud of their work and dedication.

The awarding of the Nobel Prize in chemistry by the Royal Swedish Academy of Sciences to these men reaffirms what I already knew—that Colorado is home to critical scientific research in a variety of fields. Colorado is leading the world in the effort to better understand the world in which we live. Work being completed at the University of Colorado—CU to Coloradans—the National Center for Atmospheric Research, the Solar Energy Research Institute, the forest and

range experiment stations, and the NOAA aeronomy lab is providing valuable insights to our natural world.

I am confident that all other Coloradans join me in saluting the accomplishments of Dr. Cech and Dr. Altman and applauding the fact that their work has received this notable, international honor.

CONGRATULATIONS TO GINA TURITTO

Mr. BURDICK. Mr. President, it takes a special kind of person to help children with special needs. Gina Maria Turitto is one of those outstanding individuals willing to devote her talent, time, and energy to helping her students reach their full potential.

I am delighted that Gina has been named the North Dakota Teacher of the Year by the Association for Retarded Citizens for her work with mentally handicapped students at Saxvik Elementary School in Bismarck. I would like to take this opportunity to commend Gina and all special education teachers for their efforts to educate students with special needs and make their lives a little brighter.

Gina's mother, Darlene Turitto, works in my Bismarck office. The whole family is very proud of Gina and of this well-deserved honor. I ask unanimous consent that the announcement of this year's North Dakota Teacher of the Year award be printed in the RECORD at this point.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

[From a Bismarck Public Schools news release, Oct. 11, 1989]

NORTH DAKOTA TEACHER OF THE YEAR

Gina Turitto is one of those lucky people who has always known what she wanted to do as a career. Now she will be honored in her chosen field. Turitto, a special education teacher at Saxvik Elementary in Bismarck, has been named the outstanding North Dakota Teacher of the Year by the State Association for Retarded Citizens.

Turitto says she is thrilled and honored to be recognized by such a respected group as the A.R.C. She feels she won the award because of her 'personal touch' with educable mentally handicapped students. "Over the years," Turitto says, "parents have told me that the most important thing I do for their children is treat them like individuals, determine their specific needs and design teaching techniques to fit."

One recent example is the reading program Turitto is working on with an eight-year-old multiply handicappped girl. The student cannot point or read aloud, but she can choose words by using the 'eye-gaze' method of looking at them. "I thoroughly enjoy helping students reach their fullest potential," says Turitto. "I believe students can achieve anything if they have teachers who are innovative, creative and have a positive attitude.

Turitto has taught special education in Bismarck for ten years. She is a firm believer in the integrated approach to teaching the handicapped. All of her students at Saxvik are currently mainstreamed into 'regular' education classrooms for a part of their day. Turitto says, "It's more work because I have to help the classroom teacher with modified lesson plans and discipline problems, but I've seen the benefits, and it's worth it!" Saxvik is one of several public schools in Bismarck that is involved in a pilot integration program through the Department of Public Instruction.

Jack Bye, the executive director of the Association for Retarded Citizens, says mandatory education for all handicapped people has always been a main focus of the group. He says the A.R.C. recognizes teachers like Gina because of it's belief that education is the key to unlocking the potential of handicapped citizens.

Turitto's name and others were submitted to the state association by local A.R.C. units. Candidates for the award were judged on the basis of three criteria: a positive influence, attitude and thinking regarding the education of persons with mental retardation; a willingness to assist in the Association's goal of providing full educational opportunities for all mentally retarded citizens; and a significant involvement with parents and others in the educational process.

Turitto will be presented with the North Dakota Teacher of the Year award at the state A.R.C. convention Friday, November 10 at 6:30 p.m. at the Ramada Inn in Grand Forks.

RURAL AMERICA'S WAR ON DRUGS

Mr. PRESSLER. Mr. President, last week the Senate unanimously passed the 1989 National Drug Control Strategy bill. I am pleased that the rural drug problem was addressed in the drug bill. I am hopeful that certain provisions directed at rural States such as South Dakota will remain part of the package when the bill comes out of conference committee.

In particular, the Biden amendment to the Drug Control Strategy Act calls for each State to have a minimum of 10 Drug Enforcement Administration [DEA] special agents. My home State of South Dakota has a total of four DEA agents. According to the South Dakota attorney general, the most needed resource is personnel to work on drug-related crime. Additional personnel are needed in the areas of training, intelligence collection, analysis and dissemination of drug-related information, and the establishment of multijurisdictional drug task forces.

The Biden amendment would provide more of the Federal resources South Dakota needs to effectively combat the rural drug problem. The Biden amendment is a step in the right direction toward solving the rural drug problem in South Dakota. Therefore, I urge the Senate and House conferees to protect this provision.

ETHANOL BASED FUEL ADDITIVE-ETBE FUEL OF THE FUTURE

Mr. DOLE. Mr. President, America is at a crossroads. As we approach the 21st century, we must look to our own energy resources in order to remain strong. This year we have an opportunity to send a strong signal that the United States is committed to further development of alternative fuels that will strengthen this Nation by reducing foreign oil imports.

As all my colleagues know, oil imports are on the rise. Nearly 50 percent of the total deliveries in the United States are imports. It doesn't take an expert to understand that we are reaching the dangerous levels of 1973 and 1979 when OPEC was first able to affect gas supplies through painful oil embargoes. We must look to America first in the development of a secure, domestic energy supply.

Mr. President, I have been a supporter of alternative fuels for many years. In particular oxygenated fuels, such as ethanol blends, show great promise in reducing our dangerous reliance on foreign oil imports. Ethanol development will enable the United States to never again be dependent on OPEC.

At the same time, we have a unique opportunity to address and contribute in a positive way to environmental protection and economic development of our depressed rural, agricultural areas.

American farmers will see new markets for agricultural products, including increased demand for millions of bushels of corn used in ethanol production. In addition, rural communities, dependent on the health and well-being of American agriculture, will see economic benefits as well.

American consumers will have available a high-performance fuel additive that will reduce air pollution, improve our balance of trade, and reduce Fedral Farm Program costs.

Cities in nonattainment with Federal air pollution standards will see lower ozone levels and dramatically reduced hydrocarbon aromatics levels with ethanol blends.

Mr. President, I recently received an interesting article from Secretary of Agriculture Clayton Yeutter. It is a clear and concise description of a new ethanol-based fuel additive, ETBE. ETBE is an improvement on gasahol in several areas. First, it is easier to transport to gas stations because it extracts less water in the pipeline unlike straight gasoline.

Second, ETBE is lower in oxygen content than gasoline and has the potential to significantly boost octane ratings for fuel and as a result provide higher performance levels for automobiles. Also, because it is less volatile, ETBE offers the U.S. refining industry

a way to sell butane. ETBE burns butane more efficiently and can meet EPA's strict air quality standards.

On October 4 the Senate Finance Committee approved an amendment which would clarify the blenders tax credit and provide that ethanol use in the manufacturer of ETBE would qualify for the Federal alcohol fuels credit. I believe it was the intent of Congress when the alcohol fuels credit was established in 1980 that the credit apply to new and perhaps unforseen ethanol fuel uses. This clarification is necessary for the commercialization of ETBE.

Mr. President, it is not often that one product can provide so many benefits. It is absolutely irresponsible to wait until a crisis is at hand. The benefits of an alternative fuels policy for America are clear: A stable and secure domestically produced energy supply; jobs and economic development for thousands of rural Americans; and cleaner air for our urban areas suffering from the threat of federally imposed sanctions for failure to meet ambient air standards.

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Wallaces Farmer, Aug. 8, 1989]

NEW ETHANOL-BASED FUEL ADDITIVE SHOWS PROMISE

(By Jake Jacobsen)

A massive new demand for corn could be on the horizon. An estimate of that demand has been put at 3.3 billion bushels annually. This potential demand springs from the development of a new ethanol-based fuel additive.

The people who are working to develop the potential for that new demand are chemists, microbiologists, oil refiners, automobile engineers, bankers, lawyers, salesmen, and farmers.

The company in the Plains developing this new product which uses corn to make alcohol describes its efforts in Nebraska and Kansas as "building a bridge between agriculture and petroleum refining."

And as always, the politicians are also at work—even in Washington. President George Bush came to Nebraska to gain stature as an environmentalist. But why Nebraska? He could have gone to Chicago, Los Angeles, New York, or just about any other major city for a political statement about his commitment to clean air.

Audiences would have been larger. They're the folks choking on polluted air—not us.

Bill Wells, president of American Eagle Fuels, believes President Bush came to Lincoln, Nebr., because Wells's company has a gasoline additive that will help the President make good on his commitment to clean air.

And judging by the speech that Bush made, the President was grateful to Wells for the new product—ETBE or ethyl tertiary butyl ether. He mentioned the product many times in his speech, and said he wanted ETBE to become a household word.

Okay. ETBE needs ethanol and a substance called isobutane to become a household word. Nebraska has a lot of corn and a stable supply due to irrigation for providing the ethanol. Kansas is the third largest producer of butane for making isobutane behind Texas and Louisiana. And both Kansas and Nebraska have the cattle to consume the high-protein byproduct of ethanol production.

One other ingredient is required. It's a bacteria called Zymomonas mobilis which ferments grains. A special strain of this bacteria is needed, and it comes from the University of Queensland in St. Lucia, Australia.

Brewers make strong beer with this bacteria. It has an advantage over yeast because there is a greater yield of alcohol. American Eagle's Wells points out that by using the bacteria, 10% more alcohol is produced over conventional bacteriums used.

One and one-half years ago Wells, who hails from Texas and has a PhD in inorganic chemistry from the University of Texas-Austin, and others involved in bio and chemical technology made their decision that Nebraska was the place to introduce the bacteria. American Eagle Fuels owns the rights to use Zymomonas in making ETBE anywhere in the world.

Not only does Wells point out that Nebraska has the corn and Kansas the butane, but "Nebraskans have a history of doing things new," he says, "It was here that the first tax credit was granted for corn-based alcohol fuel." That was 15 years ago. Today, Wells says he feels that his company has the product that will make the most sense in the nation's energy mix going into the 21st Century.

And he hopes ETBE will certainly become a household word. As the new product was on the lips of George Bush in June, so it is hoped by Wells's company that ETBE will also soon be on the lips of everyone who burns gasoline or diesel fuel.

But promises, hopes, and reality in the ag world have come and gone. Ethanol and gasohol-blended gasolines have certainly had a stormy battle helping to fuel America's automobile energy needs.

Signs at gas stations announcing that their fuel is alcohol free still abound, even in major corn-producing areas. Automobile manufacturers still blame alcohol-blended fuel for vapor lock in engines, especially fuel-injected ones. Many people argue that it takes more energy to produce ethanol from corn than is produced.

Despite this, gasohol has managed to carve out a respectable market share. Americans pump 100 billion gallons of gasoline a year. Contained in those gallons are 116 million gallons of ethanol. Also in the total market are 100 million gallons of another fuel additive—MTBE, which is made from cheap natural gas imported into the US.

According to Wells, the critics of gasohol, as it's now made from ethanol distilled from grains, are off base. "Several years ago the federal government commissioned a scientific look at the energy required to produce ethanol and the energy the process yielded," he explains.

"It was concluded that if you took in the value of the by-products for cattle feed and the carbon dioxide produced that was readily available to plants, it was an efficient process."

On the question of vapor lock, Wells concedes that's a problem. But he also points out that car manufacturers in designing fuel-injected engines have engineered systems that often return up to 80% of the gasoline to the tank for reuse. "That gas can get awfully hot," points out Wells. "No wonder vapor lock can be a problem."

As for gas stations starting wars with each other as to which gas is better—gasohol or no-alcohol gas—Wells says. "It's the nature of a competitive business.

"Most stations are independents these days. If their supplier isn't buying gasohol from a refiner and the competition across the street is and selling if for the cheaper price, it's natural that competitive forces are going to lead to bad mouthing gasohol."

But according to Wells, the lack of gasohol supplies is exactly what causes a lot of commotion.

ETBE could solve a major problem for refiners and help deliver more ethanol-based gas to stations, claims Wells. "The problem with transporting gasohol in pipe-lines is that it has a higher oxygen content than straight gasoline. It tends to extract water in the pipeline and there's a problem with vaporization."

Wells's company and the Environmental Protection Agency (EPA) have produced test results showing that ETBE has a lower oxygen content compared to gasohol. "This would make ETBE an attractive blend for refiners," believes Wells. "It would also solve another problem dealing with octane."

The president of American Eagle Fuels says that because ETBE uses ether in its make-up and is lower in oxygen content than either gasohol or MTBE, the potential for higher octane ratings is there. "Not only would ETBE help build a bridge between agriculture and the refining industry, but there's a potential for a bridge to the auto industry as well," says Wells. "It's no secret that what sells cars in the US market is high performance.

"Since engines have been built to perform without lead, a lot of that potential for increased performance has gone by the wayside. I feel that there is the possibility for ETBE to boost octane ratings and help car manufacturers sell increased performance."

Another bonus to ETBE, says Wells, is that because it's less voltitle it offers a way for the refining industry to sell expensive butane. Butane is a by-product of refining and under current strict anti-pollution regulations, it's difficult to put it back into gasoline. But according to test data. ETBE burns butane efficiently enough to meet tight air quality standards.

Refiners have also been adding what are called aromatics and oilfins (a highly combustible by-product) to up octane ratings. But the EPA is set to come down hard on the octane boosters because they are a leading cause of smog. One of three compounds, benzene, is cance-causing. Because the ether in ETBE, octaner could be boosted without blending so many of these potentially dangerous additives into gasoline. The auto and refining industries would be helped in meeting the standards set in the President's newly proposed Clean Air Act.

But ag, auto, and oil industries have too often been at odds, adds Wells. In his business role of bringing diverse groups together. Wells points out, "It has been tough selling a big refiner on a product such as gasohol when you've driven tractors into the refiner's headquarters and demanded that he use your product.

"ETBE has the potential to help everyone solve a problem and offer them something better."

Does that mean that Wells is sending a very pointed message to the gasohol indus-

try for adjusting its approach to ethanol's mix in the energy market of the future? "Yes, it does," he says.

It's no secret that American Eagle Fuels and its president have battled in the past for a share of Nebraska Corn Board check-off dollars.

Despite the political infighting that has gone on between varied interests in the ethanol industry, one independent point of view has been made very clear. The EPA, which is charged with implementing new clean air standards, is extremely interested in ETBE.

It has already given the go-ahead to a 13 percent ETBE blend in gasoline. American Eagle Fuels feels that its new product can be blended as high as 23 percent with gasoline for maximum benefits. The EPA is reserving judgment until tests with car fleets in day-to-day driving conditions are tabulated.

This is being arranged by the company. Also being negotiated with the government is the blended-fuel tax credit which would make ETBE an attractive price alternative to straight gasoline as gasohol now is.

Wells has publicly pointed out that if the tax credit is given and the EPA gives the okay to a 23 percent ETBE blend, this would open a potential market for 3.3 billion bushels of corn being distilled for ethaels of corn being distilled for ethnol ETBE each year. That is if the 100 billion gallons of gas pumped by us had an ETBE additive.

That's a big "if" concedes Wells. Not that he isn't confident that the EPA and the tax people will give his company's product the green light.

But it's going to take forceful mandate by the President to set the regulations which would give an advantage to ETBE into motion. The big question is will that mandate come following the politically generated excitement caused by President Bush's visit to the Plains?

At least one sign from Washington points that it will come. And the direction is pointing towards ETBE and corn. Following the President's flying visit to Nebraska, a report was made to Congress by the Federal Government's Office of Technology Assessment (OTA). The gist of the report stated that the Administration's proposals for clean air would fail if a policy relying on "compressed natural gas and methanol" were followed.

The OTA study presented to Congress further stated that replacing gasoline with ethanol's competitor—methanol—would be the most expensive way to clean up air pollution.

The cost would be about $30,000/ton of air pollutants removed via methanol-blended gasoline versus $425/ton for less volatile gasolines, says the OTA.

Less volatile gasoline is what ethanol is and has been about. ETBE is an even less volatile additive, according to reports filed by the EPA.

Wells explains that he's not sure if the political process will move towards ETBE, but adds, "While President Bush was Vice President he was in charge of deregulation.

"Getting government off people's backs" was his mandate. Slapping the oil refining industry and auto makers with new clean air rules no doubt smacks of regulation. But this is a new mandate we're faced with. Our balance of trade deficit is huge. Imported oil will become an increasingly large share of that deficit.

"Clean air is becoming a rapidly shrinking renewable resource due to automobiles in our major cities. Corn is our most abundant renewable resource. I believe that ethanol and ETBE can harness that resource to renew our polluted air and help regenerate our trade deficit. Eliminating our dependence on foreign oil, and paying farmers a fair market price for growing fuel, should be a mandate that will help us clean up the air."

Now it's up to President Bush.

FARMERS USING ALCOHOL FUELS

While the nation debates the increased use of alcohol fuels for future energy needs, a number of Nebraska producers have been burning pure alcohol in various engines. The results have been good, they report.

The following producers agreed to install injection units on a variety of diesel engines. The engine trials were part of a cooperative effort between the Nebraska Wheat Growers Association and Nebraska's Central Community College.

In Imperial, Jim Haarberg has a 235 hp engine which, when fueled by diesel, pumps 1400 gal. of water per minute.

"With alcohol injection the Well's output has increased by about 175 gal./minute," says Haarberg. "Engine temperature has dropped 3 to 5 degrees. The engine runs smoother and the exhaust smoke problem has cleared up when burning alcohol."

At McCook, Ron Friehe, reports that his semi-tractor has considerably better fuel consumption with alcohol—5.05 mpg versus 4.2 mpg. He also says exhaust temperature is lower—1000° compared to 1100° when burning diesel.

Also in McCook, Randy Peters states that his 4-WD tractor with a 505 cu. in. engine runs more efficiently with alcohol.

"My tractor also has more lugging power," says Peters. "The exhaust temperature is 50 degrees cooler.

"In 250 hours of testing we've replaced burning 3 gal. of diesel fuel an hour with 3 gal. of alcohol. Our productivity has increased by two acres more an hour."

From Gurley, Leon Kriesel also notes he has improved performance with alcohol burned in his IHC 3588 4-WD tractor engine.

"There's noticeable pickup in the engine speed and power," says Kriesel. "The rpm range has gone up from around 2300 to around 2400.

"My fuel-savings figures come out about equal. The increase in performance is the strong point. With the alcohol, the engine works easier."

STATIC ENGINE TESTS OF LOW-PERCENTAGE BLENDS OF ETHYL TERTIARY-BUTYL ETHER (ETBE) IN GASOLINE

(By Peter E. Jenkins, University of Nebraska-Lincoln and William J. Wells and Calvin T. Harling, American Eagle Fuels, Inc.)

Interest in ethyl tertiary-butyl ether, ETBE, as a gasoline blending component has grown among refiners for a variety of reasons. Compared to the similar methyl tertiary-butyl ether, MTBE, it has been reported to have higher octane response, lower volatility and blending vapor pressure, lower water solubility, equivalent or better distillation curve response, and higher caloric content per gallon. Under the "substantially similar" EPA ruling, aliphatic ethers up to 2.0 weight percent oxygen may be present in unleaded gasolines, corresponding to 12.7 percent ETBE versus only 11 percent MTBE. Made from the reaction of ethanol and isobutylene, stoichiometry indicates only a 9 percent shrinkage or reactants volume compared to 13 percent for MTBE and 20 percent for alkylate, these being the most likely and highest value alternatives for isobutylene utilization. Unlike the ethanol it is made from, ETBE could be shipped on pipelines and will lower the vapor pressure of gasoline it is blended into rather than raise it.

Environmental considerations for ETBE are also important. Oxygenate blends are required in winter months in both Denver and Phoenix, and other cities may follow. The substantial vapor pressure lowering of ETBE compared to both ethanol and MTBE is a positive step, but equivalent carbon monoxide exhaust reduction to 10 percent ethanol would require a 22 percent ETBE blend, both being about 3.5 weight percent oxygen. This is beyond the level permitted by the "substantially similar" ruling and would require a 211.F waiver to the Clean Air Act.

In order to determine the performance and combustion characteristics of ETBE blends to ascertain whether they make suitable fuels for spark ignited (SI) engines, static engine tests are needed to determine octane response, exhaust emissions profiles, and fuel economy. We report here, for a variety of low-percentage ETBE blends in Indolene and in-use gasolines, results of research and motor octane determinations, as well as engine performance data obtained from dynamometer studies.

PROJECT SUMMARY—ETBE PHYSICAL PROPERTIES AND ENGINE TESTING

ETBE DESCRIPTION

As documented in the supporting attachments, a new entrant in the octane race, ethyl tertiary-butyl ether or ETBE, holds great promise to become an important and highly valued component of motor gasoline in the near future. As either derivative of ethanol, this product would be initially sought for use in high quality super premium gasoline, a rapidly growing market segment currently excluded to traditional gasohol by the major oil companies in favor of a methanol derivative, MTBE. ETBE has similar octane response compared to ethanol, but has two important improvements: (1) blends of ETBE do not separate from gasoline when exposed to water, and (2) blends of ETBE lower significantly the vapor pressure of the base gasoline. Not only would refiners have a method of refinery blending ethanol and shipping it through pipelines, the vapor pressure lowering also allows blending of additional low cost and high octane butane, a pressuring agent normally restricted to winter months. Pricing for ETBE, and the ethanol contained in it, would be at octane value plus a butane credit. This contrasts with ethanol in gasohol, which is sold today at a discount to improve margins.

CLEAN AIR IMPLICATIONS

Use of oxygenates in mandate programs for Clean Air Act attainment of carbon monoxide standards (Denver, Phoenix) is also on the rise, but MTBE has captured nearly all of this market from ethanol as well. Not only is the fungible nature of MTBE cited as well as its greater availability and ease of transportation through pipelines, but also the slight vapor pressure elevation of ethanol blends which allegedly leads to increased evaporative emissions and atmospheric ozone levels is claimed as reason to prefer MTBE. This is unfortunate, because at 10 percent ethanol, gasoline contains in excess of 3.5 weight percent oxygen,

giving considerably more carbon monoxide reduction than the maximum allowable 11% MTBE at only 2.0% oxygen. Supply restrictions usually hold MTBE concentrations to 5-10% in these programs, although future maximum oxygen levels will tend to push these percentages up. Even if the new waiver for 15% MTBE is allowed, this would give only 2.7% oxygen and would put an impossible strain on short MTBE supplies caused by methanol unavailability.

ETBE SOLUTION

The best solution seems to be 22% ETBE blends. These dramatically lower the vapor pressure while providing 3.5% oxygen. The ethanol contained in a 22% blend is that of conventional 10% gasohol, but without the demerits of phase separation and vapor pressure increase. Most importantly, there is no shortage of grain, now and in the future, to make the ethanol required. Under current law, however, aliphatic ethers such as ETBE can only be added to gasoline up to 2.0% oxygen. This corresponds to 12.7% ETBE. A waiver to the Clean Air Act would have to be obtained to allow 22% ETBE blends.

PRELIMINARY EVALUATION NEEDED

Considerable data will have to be gathered to have a successful waiver application. Before the most expensive tests are run, the 50,000 mile emissions system durability fleet tests, one must verify the physical properties and engine combustion characteristics of ETBE and its blends to confirm its benefits. The budget which follows estimates the costs for these vital preliminary investigations, which are listed in chronological order.

CONCLUSION

In summary, ETBE represents not only a growth market for fuel ethanol and the grain to produce it, but also the first clear pathway for ethanol to be sold into gasoline at octane value; that is, the price of gasoline plus a premium, instead of minus a discount. The track record of MTBE contract pricing will be plain to investing institutions, and even if ETBE were no better than MTBE it would receive similar pricing, making investment in new grain ethanol plants attractive. In fact, as we hope to conclusively demonstrate with this research program, ETBE is probably superior to MTBE in terms of solubility in water, octane improvement, volumetric shrinkage of reactants, vapor pressure lowering, distillation curve response, and materials compatibility. All these should add to a greater value for grain ethanol received in the form of ETBE as compared to either MTBE or fuel grade ethanol for gasohol.

FUTURE STUDIES

The separate issue of economics; whether regarding applicability of the Blender Tax Credit, improved ethanol yields through bacterial fermentation, or relative value of ethanol vs. methanol to ether manufacturers and users; is beyond the scope of this study and will be part of other investigations. Also, fleet tests will be part of other investigations. Also, fleet tests will be necessary once these preliminary examinations are completed.

[American Eagle Fuels, Inc., Lincoln, NE, June 13, 1989]

EXECUTIVE BRIEFING ON ETBE AND ITS CLEAN AIR IMPLICATIONS

American Eagle Fuels is a unique partnership of government and industry. The State of Nebraska owns 49% of our company, the funds for their investment having come from a special voluntary corn check-off program. Additional support of our work has been provided by the State's corn producers as a grant. The State University here in Lincoln has also been helpful at every turn, the most visible of the efforts being executed by Professor Jenkins.

Our research and development efforts have had two goals; first, to lower the production costs of grain derived ethanol; and secondly, to improve the value received for that ethanol. To achieve the first objective, we have been developing, at our own small ethanol plant near Eagle, Nebraska, a grain fermentation process that uses a naturally selected species of bacteria instead of the usual yeast. The base technology comes from the University of Queensland in Australia, and the Animal Sciences Department here at this University performed important animal feeding studies on the protein-rich by-product distillers grains. The alcohol produced by this process is in high yield and exceptionally pure, making it ideal for further processing into ethanol derivatives, which brings us to the second part of our work.

To increase the value of ethanol, we have been developing a process to convert it from an alcohol to an ether, making it more compatible with gasoline and fuel delivery systems. This ether is ethyl tertiary-butyl ether, or ETBE for short. We have simply grafted the ethanol molecule to a common chemical found in petroleum refineries, isobutylene. The result is a clean burning, oxygenated gasoline component with high octane and low vapor pressure. ETBE can be blended with gasoline, shipped on product pipelines and stored in terminals without fear of phase separation through water contact. Our process development has been assisted by Dr. William Scheller, also a professor here in Lincoln acknowledged as the "Father of Gasohol," and by the Rohm and Haas Company, who has donated catalyst and technical support.

We have also performed many tests on ETBE, and we have come to understand that it will be as useful in improving urban air quality as it will in providing an enormous new outlet for domestic surpluses of grain and butane, which in turn can be converted to isobutylene. Use of these surpluses materials in our gasoline pool could reduce our balance of payments, reduce our dependency on imported crude oil, and reduce federal farm support program costs. As a Texan from an oil and gas producing and refining town, I understand the importance of combining ethanol with surplus butane from the natural gas and petroleum refining industries.

In the clean air area, it is well known that an oxygenated gasoline blend, containing about 3.5% oxygen in the form of alcohols or ethers, will reduce exhaust emissions of carbon monoxide by 20 to 30%, and reduce exhaust emissions of unburned hydrocarbons, which are precursors to harmful ground level ozone, by 10 to 15%. A 22% blend of ETBE delivers this oxygen level, but also much more. Its low blending vapor pressure of only 4 psi will reduce gasoline volatility by 10 to 15%, cutting down evaporative emissions and helping refiners meet EPA's new low volatility standards, while increasing their available octane to cover the loss of toxic lead from the gasoline pool. Also, as refiners remove high pressure butane from gasoline in order to meet the new standards, processing with ethanol to make ETBE will be a way to add butane back into the pool in an environmentally sound manner.

Importantly, 22% ETBE will substitute for as much as 60 to 70% of the aromatics or olefins currently in gasoline. Both of these are highly photochemically reactive, and olefins are implicated in fuel injector plugging, which leads to decreased efficiency and more unburned fuel emissions. Aromatics are toxic in their own right, and they lead to formation of the carcinogen benzene in the exhaust.

Finally, there is a net positive greenhouse gas benefit for fuel use of ethanol or its derivatives such as ETBE, due to consumption of carbon dioxide during photosynthesis of the grain growing plant.

A summary of the clean air benefits attributable to 22% ETBE blends are shown on the chart to your left.

We hope that this brief sketch has illustrated the important role which ETBE can play in energy security, farm jobs, grain and gas liquids utilization, gasoline octane enhancement and quality improvement, and most importantly—assistance in attainment of national clean air quality standards.

ARMENIAN GENOCIDE RESOLUTION

Mr. PRESSLER. Mr. President, last week I joined Senator DOLE and more than 50 other Members of this distinguished Chamber in introducing Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-23."

Since that time, several additional Senators have been added as cosponsors. Unfortunately, several Senators have withdrawn their cosponsorship of this worthwhile resolution. I am aware of an intensive lobbying effort by Turkey against the resolution. That lobbying has taken various forms, including telegrams and letters to Senators from Turkish-American groups and American corporations with business interests in Turkey.

The principal allegations of those who are lobbying us are: First, the Armenian Genocide did not occur; second, the Armenian Genocide resolution is an unbearable insult to our Turkish allies; and third, enactment of the resolution will destroy our mutual defense and economic relationships with Turkey.

Mr. President, these assertions are false. First, the Armenian Genocide is an historical fact of the Ottoman Empire. The reality of that genocide is well documented in contemporary eyewitness accounts. Second, the resolution refers not to misdeeds of the Republic of Turkey, but to actions of the antecedent Ottoman regime. It is no insult to modern Turkey. Third, enactment of the resolution could destroy our close relationships with Turkey only if Turkey deliberately chose to break its ties with our Nation. I cannot believe that a reliable ally would choose to do such a thing.

It is unfortunate that the politicians in Ankara have chosen their present course of action against the Armenian Genocide resolution. Instead of putting this issue to rest by a simple recognition of the historical fact, as Senate Joint Resolution 212 does, Turkish politicians and their allies deny the reality of the genocide and threaten dire consequences if Congress passes the resolution.

Turkey would do itself much good by dropping its antagonism toward the Armenian Genocide resolution. Acceptance of historical facts would not blemish the character or image of Turkey. Continued denial of those facts is injurious to world perceptions of Turkey. The world would respect Turkey more if its leaders stopped trying to obscure the awful crimes committed against Armenians by the long defunct Ottoman empire.

Mr. President, I urge Senators to cosponsor Senate Joint Resolution 212 and to encourage the Judiciary Committee to report it promptly for Senate floor action this year.

Remembrance of the slaughter of 1.5 million Ottoman-era Armenians is a positive step. It reaffirms the high value the American people place on respect for human rights and the dignity and worth of each individual human being.

DEXTER GUNDERSON

Mr. PRESSLER. Mr. President, I rise today to pay special tribute to a fellow South Dakotan, Dexter Gunderson, who unselfishly spent part of his life serving South Dakotans as State Director of the Farmers Home Administration [FmHA].

Anyone who is familiar with FmHA knows that proper administration of FmHA programs is crucial to the economy of a state like South Dakota. Thousands of our farmers and livestock producers are dependent on FmHA financing for funds to operate their farms and ranches. Towns and cities across South Dakota depend on FmHA funding for special needs, such as water and waste systems. Thousands of South Dakotans from all walks of life live in houses and apartments made available because of FmHA funding. FmHA is a vital contributor to South Dakota's overall economy.

Dexter Gunderson guided and administered FmHA programs and policies fairly and effectively during his tenure as State Director. He held his position during the 1980's—a turbulent time in agriculture. High-interest rates, low livestock and commodity prices, sinking real estate values, overproduction, adverse weather conditions, and poor fiscal policies from the preceding decade contributed to desperation in the agricultural community. What was needed was financial leadership that would be unwavering, fair and equitable.

Dexter Gunderson answered the call to duty in a most admirable fashion. He was not content just to fill the position. He always did more than he was asked to do. Dexter gave of himself unselfishly because of his commitment to his state and his fellow South Dakotans. Highly unpopular yet necessary programs and policies were implemented. A less competent leader could not have done what Dexter accomplished in the face of much adversity and public criticism. His abilities and fair administration won Dexter the admiration and support of employees within the state FmHA organization, as well as recognition from national officials.

Mr. President, I quote from a letter sent to the South Dakota FmHA office after an exit review. "The attached composite ratings on the results of the subject review conducted on your State's operations were presented to me at the June 29, 1989 exit conference. I commend you and your staff for the achievements as reflected by the superior ratings given by the Community Programs Division, Business and Industry Division, Personnel Division, and finance office-Financial and Management Analysis Staff. Much work went into these achievements. There were no marginal ratings." This letter was signed by Neal Sox Johnson, Acting Administrator of FmHA in Washington, DC.

As you can, see Dexter Gunderson was commended for a superior performance in the administration of his organization in South Dakota.

I am proud to share my respect and admiration for Dexter Gunderson with my colleagues here in the U.S. Senate. Seldom has a public servant given so much to his fellow man in the face of great adversity.

The state of South Dakota is a better place because of Dexter Gunderson. Words cannot express the appreciation I feel for his past service. I only wish more people would serve their fellow citizens as unselfishly as Dexter has.

SECONDARY SCHOOL RECOGNITION PROGRAM

Mrs. KASSEBAUM. Mr. President, the Department of Education recently announced the selection of 218 schools as award recipients under the Secondary School Recognition Program.

This program honors schools which have attained high standards of educational excellence, and I am especially pleased that three schools from the state of Kansas were selected to receive this award. These schools include Blue Valley High School, Topeka High School, and Leawood Middle School.

Blue Valley High School was commended as being a place where students success and well-being lie at the heart of educational activities. During a time of rapid growth, the school has maintained a 16 to 1 student-teacher ratio, and teachers are actively encouraged to undertake professional development activities. The school has developed systematic, personal home-school communications methods, and parents are very much involved with the education of their children. Participation in activities such as parent conferences averages between 85 and 95 percent.

Topeka High School [THS] was cited as being unusually effectively in serving a large racially and ethnically diverse student population. There is strong student participation in problem solving. Reviewers took particular note of the strong sense of "family" which pervades the school, observing that this is a unique strength for a large urban school. As a one-time member of the THS family, I take a special pleasure in this award.

Leawood Middle School was described by reviewers as "one of the top middle schools in the country." There is strong community support for the school. The response rate to requests for parent volunteers exceeds 50 percent, and participation in activities such as parent conferences is even higher. Both teachers and students arrive early and stay late at school in order to work together on academics and activities.

The common denominator among these three schools is their emphasis on creating a community spirit. They have recognized that the key to success is the active involvement of all parties—students, teachers, parents, administrators, school board members, and community residents. Each participant is seen as an important part of the quest for excellence. Everyone who has contributed to the success of these schools is to be commended and can take enormous pride in the recognition given their efforts by the Department of Education.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:11 p.m., a message from the House of Representatives, delivered by Mr. Bogart, one of its clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, delivered by Mr. Johnson, one of its clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2087. An act to transfer a certain program with respect to chid abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes;

H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986;

H.R. 2978. An act to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag; and

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILL SIGNED

The PRESIDENT pro tempore [Mr. BYRD] announced that he had signed the following enrolled bill, which had previously been signed by the Speaker of the House:

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the peformance management and recognition system through March 31, 1991, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 13, 1989, he had presented to the President of the United States the following enrolled bill:

S. 248. An act to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 1754. A bill to amend the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 1755. A bill to amend title 32, United States Code, to authorize Federal support of State defense forces; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 1754. A bill to amend the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and for other purposes; to the Committee on Environment and Public Works.

SOLID WASTE DISPOSAL ACT AMENDMENTS ACT

Mr. HEINZ. Mr. President, the disposal of solid waste in this Nation has reached a breaking point. In the next 10 years, one-third of our landfill capacity will be full. At the same time, waste generation has increased by 80 percent since 1969. Each of us, on average, throws away 3.6 pounds of garbage every day—enough annually to fill a convoy of 10-ton trucks 145,000 miles long, more than seven times the circumference of the planet.

Currently, around 75 percent of our garbage is deposited in landfills, while 11 percent is recycled and 13 percent is burned in waste-to-energy plants. Despite the imminent collapse of our existing solid waste disposal system, Mr. President, most States have not devised programs to reduce their waste stream or implemented programs to increase recycling of reusable products.

In Pennsylvania, New Jersey, West Virginia, Kentucky, and other States, the problem is more acute. In those States 100 percent of existing landfill capacity will be full—to the brim—in the next 5 years. And many more States will exhaust their landfill capacity in the next 10.

Since we are making far too little progress in reducing the generation of solid waste, these States will shortly have to take extreme steps—siting many new landfills, building tremendous numbers of incineration facilities, or worse, moving the problem to some other State and dumping the waste there.

Last year, Congressman BILL GOODLING and I asked the General Accounting Office to review those Superfund sites which are also sanitary landfills. In my State of Pennsylvania, 24 of our 77 landfills are already Superfund sites and 3 of those have been given permission by the State to expand further. New York, New Jersey, and Wisconsin also had more than 20 Superfund landfills.

Mr. President, the continued generation of solid waste will certainly lead to more landfills. If we continue to exercise haphazard control over where these landfills are sited and allow States to do as they please in managing their waste, I can assure my colleagues that there will be more Superfund sites, in more States.

Today, I am introducing legislation to require each State to create a comprehensive management plan to reduce the growing amount of waste in their own State, and to penalize States that act irresponsibly and try to dump their garbage in their neighbor States.

Under my legislation, the plan which each State must develop and provide to EPA must include:

First, a thorough estimate of the amount of municipal and commercial solid waste and waste residuals generated, by type of waste, projected for the next 20 years.

Second, a clear statement of degree to which recycling and source reduction will affect the volumes.

Third, a comprehensive analysis of the State's capacity to manage the identified wastes and whether the treatment or disposal facility meets current environmental standards.

Fourth, the methods by which the State plans to have new capacity available by their planning dates.

Fifth, the amount of waste the State will accept from other States or send to other States. In addition, each State must certify that based on their State plan and based on any agreements made with other States, they will have adequate capacity to manage all solid waste for the next 20 years.

Further, our legislation deals strongly with those States which do not comply. If a State fails to develop a plan and certification in a timely fashion, or fails to implement its plan, the State could lose a significant portion of its Federal highway funds.

No State may dispose of its waste in interstate commerce without an agreement with the receiving State. Violations of this provision are subject to a $50,000 fine.

And the consent of Congress is given to agreements among States to dispose of solid waste.

Mr. President, I recognize that these requirements are stringent and are intolerable of noncompliance, but we must address—strongly and promptly—a problem that literally threatens to engulf and swamp us. Each year, we must find ways to dispose of over 250 million tons of residential, commercial, and industrial waste. We're almost out of space to put it in, and yet the amount of waste has been increasing, not decreasing.

My legislation provides real incentives and real penalties for States to meet the challenge and get their solid waste problem solved. I urge my colleagues to join us in cosponsoring this legislation.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Solid Waste Disposal Act Amendments Act of 1989".

AMENDMENTS

SEC. 2. (a) Section 4003(a) of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end thereof the following:

"(7)(A) The plan shall include provisions setting forth—

"(i) the amount of municipal and commercial solid waste and waste residuals, which will be generated in such State for the next 20 years, including the types of waste;

"(ii) a clear statement of degree to which recycling and source reduction will affect such amount so generated;

"(iii) the State's existing capacity to manage such amount of waste by treatment or disposal facilities which meet existing environmental standards;

"(iv) the methods by which the State plans to have new capacity available by its planning dates; and

"(v) the amount of solid waste the State will accept from other States or send to other States.

"(B) In any case in which a State, upon the expiration of the 24-month period following the date of the enactment of this paragraph, does not have an approved plan, as modified by the requirements of this paragraph, or fails to submit its certification pursuant to subsection (e), the Secretary of Transportation shall withhold 20 percent of the amount required to be apportioned to such State under each of the paragraphs (1), (2), (5), and (6) of Section 104(b) of title 23, United States Code, for each year that the State fails to have an approved plan, as so modified, or has failed to give such certification.".

(b) Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end thereof the following:

"(e) CERTIFICATION.—(1) Within 24 months following the date of the enactment of this subsection, each State shall certify to the Administrator that such State, based on its plan, or on agreements made with any State or States, or both, will have adequate capacity to manage all solid waste generated in that State for the next following 20 calendar year period following the date of such certification.

"(2) In any case in which a State fails to manage its solid waste in accordance with its plan and certification in any calendar year, the Secretary of Transportation, with respect to the first such calendar year, shall withhold 20 percent of the amount required to be apportioned to such State for the next following calendar year under each of the paragraphs (1), (2), (5), and (6) of section 104(b) of title 23, United States Code. For each calendar year thereafter in which such State so fails, the Secretary shall withhold, from such amount required to be apportioned to such State for the calendar year next following the calendar year in which such failure occurred, a percentage equal to the percentage withheld for the immediately preceding calendar year in which such a withholding took place, plus an additional 20 percent.

"(3) For purposes of this paragraph, a State shall be considered to have failed to manage its solid waste in accordance with its plan and certification, if such State, during any calendar year, is required to transport to another State, for disposal or treatment, an amount of its solid waste generated during such calendar year which is in excess of 20 percent of the aggregate amount of solid waste generated within such State within such year.".

UNLAWFUL TRANSPORTATION OF WASTE

SEC. 3. (a) It is unlawful for any State generating solid waste to transport or cause to be transported such waste in interstate or foreign commerce (as defined in section 10 of title 18, United States Code), unless such generating State is transporting or causing the transportation of such waste under a written agreement such State agrees to accept the waste for treatment or disposal.

(b)(1) The Administrator may issue an order assessing a civil penalty for any violation of subsection (a) in an amount not to exceed $50,000.

(2) The Administrator may commence a civil action for any violation of subsection (a) in any appropriate United States district court for appropriate ruling, including a temporary or permanent injunction.

(c) The consent of the Congress is given to two or more States to negotiate and enter into agreements or compacts not in conflict with any law or treaty of the United States for cooperative efforts and mutual assistance for the management of solid waste, and the approval of Congress is hereby given to any such agreement or compact so entered into.

INTERSTATE COMMERCE COMMISSION JURISDICTION

SEC. 4. The Interstate Commerce Commission, in consultation with the Department of Justice, shall have the responsibility to investigate and review from time to time, interstate operations and agreements involving the transportation, treatment and other disposition of solid waste for the purpose of ensuring lawful operations and agreements.

SANITARY LANDFILLS

SEC. 6. (a) On and after September 20, 1989, no sanitary landfill shall thereafter be established—

(1) within a 50 year floodplain;

(2) within wetlands; or

(3) within 2 miles of a State or national park boundary or a State or national forest boundary, or a State or national wild and scenic river or river study area.

(b) Landfills sited under authority of the Solid Waste Disposal Act shall be required—

(1) to have in place methods to detect and prevent leakage, leaching, or contamination of soils and waters beyond its boundaries;

(2) to show financial responsibility capabilities for damages resulting from its operations;

(3) to have appropriate requirements for source separation and recycling prior to disposal; and

(4) to have appropriate requirements for closure and postclosure care of landfills.

Mr. SPECTER. Mr. President, in the interest of time I shall summarize my approach to this legislation. I am glad to join with my distinguished colleague, Senator HEINZ, in introducing this important landfill legislation. Whenever I travel through my State, in our 67 counties, I find the recurrent problem of landfills.

People of my State receive some 5.5 million tons of solid waste each year from out-of-State, and in a State which has a total remaining capacity estimated at being only 9.5 years, it is expensive. From one end of Pennsylvania to the other these problems of solid waste disposal present an acute environmental problem. Perhaps nowhere in Pennsylvania and perhaps nowhere in the United States is the problem of solid waste disposal more acute than in Scranton, PA.

In response to citizens' requests and citizens complaints about a serious garbage problem in Scranton, I visited there on August 8 of this year and found an absolutely intolerable situation where there were large accumulations of garbage presenting a serious problem to residents of suburban Scranton. There were health and welfare considerations and no realistic means to combat the problem. The difficulty arose because garbage was being imported to Pennsylvania, specifically Scranton, from New Jersey, and under existing constitutional standards for interstate travel there was no way that local government could deal with this problem.

Senator HEINZ and I responded to these concerns, have conferred, and have prepared the legislation which is being introduced today which seeks to present a comprehensive solution, and not only for the problems of Scranton, not only for the problems of Pennsylvania, but for the problems of the country because it is a major nationwide concern, and the solution which we have crafted calls for each State to formulate a comprehensive plan.

To the extent possible, Mr. President, States ought to accommodate their own problems but if that is not feasible then there ought to be a fee charged through the Environmental Protection Agency carefully calculated to reward those locales and those States which solve their own problems and to provide a fund which may compensate States which are recipients of solid waste disposal.

This legislation further calls for enforcement by the loss of moneys from the interstate federal highway fund.

This, let me candidly say, is the beginning of a very complex problem, one which has not been adequately addressed by the Federal Government either in the executive or the legislative branch. This in my judgment is a significant first step forward. I believe we should have hearings on this issue, and we should come to grips with it because it is a major problem confronting our Nation.

Mr. President, if my colleagues could have been in Scranton on August 8 and could have seen the anguish on a large group of citizens assembled there in a town hall on this terrible problem of health and welfare caused by the importation of garbage from a neighboring State, New Jersey, and if my colleagues could have heard the complaints which I have heard across my State, and doubtless many have in their States, they would realize, as Senator HEINZ and I have that this is a problem that must be addressed.

Mr. President, in the interest of time, I ask unanimous consent that my prepared statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ARLEN SPECTER TO AMEND THE SOLID WASTE DISPOSAL ACT

Mr. President, today my colleague from Pennsylvania, Senator Heinz, and I introduce legislation to devise a fair and workable solution for the nation's solid waste disposal problems.

Across the country states are experiencing the acute impact of dwindling landfill capacity and limited means to provide adequate alternative methods of disposal. As a consequence, some states no longer possessing adequate capacity, have opted for the more economical solution of shipping large quantities of their solid waste to cheaper out-of-state landfills, instead of incurring the increased costs associated with establishing new local facilities. This has given rise to the significant legal challenge of finding equitable procedures for the regulation of interstate transportation of solid waste. If a solution is not found soon, landfill shortages very likely will begin emerging throughout entire regions of this country with dire social and environmental results.

For this reason, Mr. President, we are introducing legislation which provides incentives for states to devise realistic long-term plans for handling the disposal of solid waste.

Our bill requires states to update their present solid waste management plans and provide estimates as to the amount of municipal and commercial waste they expect to generate in the next 20 years. The new plans also must contain a comprehensive review of existing landfill capacity and methods, including export of garbage, for disposing of excess waste. Each state will have 24 months, after the date of enactment, to file an amended plan with the Environmental Protection Agency in which it will certify that based on its plan, or on agreement made with any state or states, that it has made adequate provisions to manage its solid waste disposal for the next 20 years.

The legal precedent for such an approach is clear. If a state has an approved plan for complying with minimum waste disposal requirements as set forth in the Resource Conservation and Recovery Act (RCRA), then the state has a priority obligation to ensure that it adheres to its plan. Local landfills receiving out-of-state waste jeopardizes the state's ability to operate within its plan, and in turn risks noncompliance with federal standards. Federal legislation would serve the purpose of imposing penalties on those states circumventing RCRA requirements and encourage them to find solutions which do not inhibit other states' abilities to adhere to their plans.

This bill contains what I believe to be a sensible approach to the challenge of finding penalties and incentives which are fair to all states. Accordingly, Senator Heinz and I advocate the imposition of a fee, to be determined by the Environmental Protection Agency, which will be imposed on each state for every ton of solid waste it exports. The fee will provide an incentive for states to find local solutions for their trash problem. Proceeds from the fee will be used to partially compensate those states receiving another state's solid waste. Another incentive called for in this legislation will be the threat of withholding highway money from those states which fail to manage their solid waste disposal in accordance with their federally certified plan.

Mr. President, we face a serious problem. Yet it is a problem which does not lack solutions. I applaud the laws and regulations already enacted by some states that are resulting in an environmentally sound and economically efficient combination of recycling, landfilling, and incineration in much the same manner as recommended by the Environmental Protection Agency as national policy.

That being the case, why do we find it necessary to propose legislation to set national standards for waste disposal? This legislation is necessary, Mr. President, because Pennsylvania and similarly situated states find that implemention of their own carefully constructed waste management plans is threatened by the burden imposed on them by disproportionate amounts of solid waste being transshipped from other states.

According to Commonwealth of Pennsylvania reports, approximately nine million tons of municipal solid waste are generated in state per year, of which one million tons are shipped out-of-state. Pennsylvania landfills now receive approximately 5.5 million tons of solid waste per year from out-of-state sources. At this rate, Pennsylvania estimates state landfills have approximately 9.5 years of capacity remaining. These alarming statistics reflect the difficulty Pennsylvania faces in implementing the recycling legislation enacted in the state last year to provide for solid waste planning.

The state legislation mandates recycling by counties and provides state funding for municipalities to achieve their recycling goals. Under the new law, at least 25 percent of all municipal waste in the Commonwealth must be recycled by January 1, 1997. Yet, how can the State of Pennsylvania, and states in similar situations, have confidence in these plans when their goals and guidelines are being undermined by the increasing accumulation of out-of-state garbage?

Mr. President, I am personally familiar with the anxiety that the landfill crisis provokes in local communities. On August 8, I met with Lackawanna County officials, envionmental group representatives, and many area residents at the Keyser Valley Community Center in Scranton, Pennsylvania, to discuss the solid waste issue. At that meeting, I heard first-hand the deep concerns expressed by area residents, and we discussed possible solutions to this problem.

One approach was the creation of an interstate compact involving Pennsylvania, New York, and New Jersey to address the tri-state area's trash disposal problems. At that meeting, I indicated that I would explore the regional concept as it related to solid waste disposal.

After circulating the draft compact proposal to local interested parties, I received an analysis on August 15 from representatives of a local enviromental group, Citizens Alert Regarding the Environment (CARE). CARE reported that the "compact proposal is fine and every proposal that is made is a step forward," while urging that the concept be expanded to place the responsibility for waste disposal on those states exporting solid waste. Thus, the bill we introduce today not only incorporates the original interstate compact initiative, but also includes a broader approach to better define the states' individual responsibilities in addressing the solid waste disposal problem.

Our legislation will authorize the establishment of interstate compacts that will enable states to come together and forge mutually acceptable cooperative solutions to this problem. The creation of such compacts also will address the need for states to reach agreements on the current and evolving methods for waste management. Today, approximately 76 percent of the nation's garbage is deposited in landfills while 11 percent is recycled and 13 percent is burned in waste-to-energy plants or incinerators. While these source reduction efforts are helpful, we must face the fact that landfills are and will be a necessary part of our future because not all waste can be recycled or burned. The formation of interstate compacts can help states collectively plan for the most efficient mix of source reduction methods and landfills.

One example of the use of compacts, as my colleagues are aware, was the enactment of "Low-Level Radioactive Waste Policy Act Amendments" implemented in 1985 to tackle similar problems associated with the disposal of low-level radioactive waste. The advantage of such an approach is that states ultimately would see it as more economical, and also manageable, for regional groupings of states collectively to devise solid waste disposal programs than for states to follow independent plans. Given the many differences in solid waste generation and available landfills from state to state, I believe this to be the only reasonable approach. Thus, the bill we are introducing today contains, as I mentioned earlier, incentives in the form of fees charged on waste transported out-of-state in excess of a state's adopted plan.

As my colleagues are aware, previous attempts to regulate trash disposal have not been very successful. For example, the Supreme Court in *City of Philadelphia* v. *New Jersey* (437 U.S. 617 [1978]) found that it was unconstitutional for states to adopt statutes that closed their borders to the importation of solid waste. The Court held that trash, although it has no inherent value, constitutes a commodity. Thus, it would be a violation of the Commerce Clause for states to restrict access to their landfills from out-of-state muncipalities. Nevertheless, the theory behind this decision is that states should not enact laws to isolate themselves from national problems, which points to the need for federal guidelines and procedures for solid waste disposal that are monitored by a federal agency. In the bill Senator Heinz and I are introducing today, the Interstate Commerce Commission will be charged with oversight authority to monitor states' compliance with federal guidelines.

Mr. President, some of my colleagues from states less affected by trash disposal problems may question the need for a federal solution to what they see as a local problem. The facts, however, clearly reflect the rapidly worsening situation arising from insufficient landfill capacity and its threat to the environment.

The Environmental Protection Agency estimates that there were almost 6,000 municipal solid waste landfills in operation nationwide in 1988. Of those, more than 2,000, or one-third, are scheduled to be closed within four years. The U.S. Conference of Mayors also estimated that more than half of our cities will have exhausted their landfill capacity within the next ten years.

Information obtained from the National Solid Waste Management Association (NSWMA) cites three cases in densely popu-

lated Northeastern States which further highlight the problem:

"By 1995, according to the New York State Legislative Commission on Solid Waste Management, all landfills currently operating within that state will reach their capacity and close. Since 1982, in fact, the number of facilities has declined from 500 to fewer than 270, while only one interim site has been opened.

"Since 1976, the number of landfills in New Jersey has decreased from more than 300 to fewer than 100, 12 of which provide over 90 percent of the state's remaining capacity. Faced with what the National Solid Waste Management Association terms "an acute shortage of disposal space." 11 counties must send their garbage to out-of-state facilities. Over half the state's refuse is presently "exported" to other regions.

"Officials at the Connecticut Department of Environmental Protection have calculated that most of the state's landfills can operate for only two more years. Already, 50 percent of all solid waste in the state is deposited in only nine major facilities."

This impending shortage appears even more problematic given trends in the composition of household refuse—increased use of non-biodegradable plastics and other artificial materials which take up valuable disposal space. Records indicate that Americans throw away almost 160 million tons of trash each year, or nearly 3.6 pounds per person daily. Some experts predict that this trend will increase to six pounds per day by the end of the century.

Mr. President, it would not be productive to point a finger at other states and municipalities with solid waste disposal problems. As I described earlier, Pennsylvania faces acute landfill shortages of its own. The pervasive national dimension of this impending crisis suggests that a passive response which assumes the problem will work itself out at the state level is patently insufficient. Current national capacity is so limited that one state's crisis today will most certainly become its neighbor's tomorrow. One solution is to encourage states to coordinate their solid waste disposal plans, which is the basis of the legislation we propose today.

Accordingly, I urge my colleagues to join in support of this legislation so we can address the serious national problem of solid waste disposal.

By Mr. THURMOND:

S. 1755. A bill to amend title 32, United States Code, to authorize Federal support of State defense forces; to the Committee on Armed Services.

FEDERAL SUPPORT OF STATE DEFENSE FORCES

Mr. THURMOND. Mr. President, as a strong supporter of preparedness in the common defense of our Nation, I rise today to introduce legislation which would authorize Federal support of State defense forces. This legislation will not cause increased Federal spending, but will contribute to the preparedness of our Nation and our States in times of national emergency.

Mr. President, I venture to say that many of my colleagues are not aware that 23 States have some form of State defense force, nor are they aware of the hundreds of citizens who are involved in this patriotic service. The history of the State defense forces goes back to World War I when it was called the "Home Guard" and its primary function was to assume the duties of the National Guard units that were activated.

In 1940, a model State Guard Act was developed, and throughout World War II the State Guard performed such vital functions as coastal defense and installation security against sabotage. After the war all State forces, except the National Guard, were banned. With the beginning of the Korean war, "temporary" National Guard units were set up to replace those Guard units which were federalized. The Korean experience resulted in the Congress amending title 32, to allow the States to set up State defense forces.

Today, the mission of the State defense force is to back up the National Guard. This backup is mostly for problems of domestic security—such as crowd control or use during natural disaster. During times of National Guard callup—which happened 249 times during fiscal year 1989—the State defense forces are the only organized forces available to the Governor to react to emergency situations.

Mr. President, the State defense forces are supported entirely by the State although, in many instances, individual members of the force pay for their own uniforms and equipment. Despite State support, the State defense forces often do not have personnel qualified to train new personnel. Virtually all are poorly equipped and some do not have any equipment at all. The legislation I am introducing today will help address these problems. With the passage of this bill:

The Army can issue or sell surplus supplies and equipment;

Retired military personnel, who do not have any other mobilization mission, will be allowed to join State defense forces so that, at least during peacetime, their experience and expertise could be used by the defense forces for the training of others;

The Army can lend training manuals to the State defense forces;

State defense forces may use Army training facilities when there is room for them;

State defense force personnel may attend active training schools when there is room. This training will normally be funded by the State; and

The National Guard Bureau may help States with organization and mission definition of the State defense forces.

Mr. President, there is no doubt that the State defense forces perform a vital function. My legislation does not attempt to justify the mission—the mission exists. This bill—without adding to the budget—will allow the State defense forces to be equipped, trained, and organized in order to contribute to the preparedness of our Nation. As we enter a period of constrained defense budgets and possible reduction of active force structure, National Guard callup in the event of a national emergency is more likely. With a prepared State defense force, we need not be concerned about who will assume the functions of the National Guard.

Mr. President, before I went into World War II, I happened to have been a member of the State Defense Force of South Carolina. They are all volunteers, unpaid and trained in order to assist our State to be prepared to take care of emergencies if and when the National Guard is called out.

Mr. President, I urge my colleagues to join me in support of this bill, and ask unanimous consent that a copy of this legislation appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL SUPPORT OF STATE DEFENSE FORCES

(a) IN GENERAL.—(1) Title 32, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—STATE DEFENSE FORCES.

"Sec.
"901. Definitions.
"902. General policy.
"903. Membership.
"904. Arms and equipment.
"905. Uniforms: sale and wear.
"906. Training assistance.
"907. Federal coordination.
"908. Non-Federal status.
"909. Security clearances; criminal history information.

"§ 901. Definitions

"In this chapter:

"(1) The term 'State defense force' means a military force defense force organized by a State to serve as a State military reserve force that would train to become actively operational when the State National Guard forces are federalized or otherwise not available in or adequate to the needs of the State. A State defense force need not be so named by the State to be a State defense force for purposes of this chapter.

"(2) The term 'State' includes the District of Columbia and any territory or commonwealth that has an organized National Guard.

"(3) The term 'national emergency' means an emergency declared by the President or the Congress.

"§ 902. General Policy

"(a) State defense forces are considered to be in the national interest as a reserve force of the several States—

"(1) to maintain public safety and order;

"(2) to protect essential resources and facilities;

"(3) to combat terrorism; and

"(4) to perform essential services when National Guard forces are federalized or otherwise not available or adequate to the State.

"(b) State defense forces meet an essential need of the Nation and are in the interest of National security.

"§ 903. Membership

"(a) Qualifications for membership in a State defense force shall be determined by the State sponsoring the defense force. A member of the armed forces may not be a member of a State defense force unless such membership is authorized under regulations prescribed by the Secretary of Defense or, in the case of the Coast Guard, by the Secretary of Transportation. Membership in a State defense force does not exempt any person from the provisions of the Military Selective Service Act or from any military duty or service that such person may be required to perform by virtue of membership in the armed forces.

"(b) A State may require an oath of allegiance to a chief executive of a State before a person becomes a member in the State defense force of that State. Any such oath shall include an affirmation of support for the Constitution of the United States and shall not include a provision that would limit a person's appointment or enlistment in an armed force.

"(c) Membership in a State defense force may not by itself limit a person from enlistment or appointment in an armed force.

"§ 904. Arms and equipment

"(a) The Secretary of a military department may issue or loan to a State such equipment, small arms, and uniforms as may be necessary for its State defense force to train and perform such functions as may be designated by the Governor and approved by the Chief of the National Guard Bureau. The issuance of any such items may be made on a reimbursable basis if determined appropriate by the Secretary concerned. Items issued or loaned under this subsection may be made only from items that are excess or obsolete for the needs of the military department concerned.

"(b) The Secretary of Defense shall prescribe policies and procedures to carry out subsection (a). Such policies and procedures shall—

"(1) ensure that items specified in subsection (a) may not be issue or loaned if to do so would affect adversely the readiness of active or reserve forces; and

"(2) provide that when any property issued or loaned is no longer needed by a State defense force, it shall be reported to the Secretary of the military department concerned and that any subsequent disposal of such property shall be carried out in accordance with the Federal Property and Administrative Services Act of 1949.

"§ 905. Uniforms: sale and wear

"(a)(1) Notwithstanding chapter 45 of title 10, a member of a State defense force may wear a uniform normally prescribed for wear by members of an armed force if—

"(A) the uniform as prescribed for wear by members of the State defense force includes distinctive devices or accoutrements identifying it as a uniform of a State defense force;

"(B) such uniform does not include a designation bearing the name of an armed force; and

"(C) The Secretary of the military department concerned approves State regulations for the wear of such uniform.

"(2) Before approving State regulations, the Secretary of the military department concerned shall ensure that such regulations include provisions regarding manner of wear of the uniform and periods of wear in such a manner that the wearer of the uniform will not tend to discredit that armed force.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may sell uniforms, items of uniforms, indicia of grade, and individual equipment to members of State defense forces.

"(c) A former member of the armed forces, a member of the Retired Reserve, or a regular member who is retired may wear such decorations and medals awarded for military service or valor on the uniform such person wears as a member of State defense force.

"§ 906. Training assistance

"(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretrary of a military department may provide training and training assistance for State defense forces. Such training and assistance may include—

"(A) the provision or loan of training manuals and instructional materials, including training devices used for active and Reserve forces;

"(B) the use of Federal military training facilities;

"(C) attendance at service schools on a space-available basis; and

"(D) the services of active or Reserve members of the armed forces skilled in training.

"(2) Transportation and travel expenses are not authorized members of the State Defense Forces for any training under this section.

"(3) The Secretary of the military department concerned may establish priorities and conditions for the provision of the training authorized by this subsection.

"(b) Under regulations prescribed by the President, an executive department or an independent agency of the Federal Government may provide such training and training assistance to a State for the State defense forces of that State as is in the interests of national security and not detrimental to the primary operational requirements of the department or agency concerned. Training under this subsection may be of the same quality as the training authorized by subsection (a) and shall be with the agreement of the Secretary of Defense.

"(c) The Secretary of a military department and the head of a department or agency referred to in subsection (b) may require reimbursement from a State for the cost of providing training or training assistance to the State defense force of that State. Reimbursement normally should be required in the case of training provided a member of a State defense force for a period exceeding 14 days.

"§ 907. Federal coordination

"The Chief of the National Guard Bureau shall serve as the means of communication between a State and the Federal Government on matters involving the State defense force of such State.

"§ 908. Non-Federal status

"A member of a State defense force is not a member of the armed forces or an employee or agent of the United States for any purpose, including legal liability or legal defense. Any such member is responsible to the State sponsoring the defense force. A member of a State defense force who is injured or who dies while performing training or duties on behalf of the State defense force may not be provided military or federally sponsored health care, other than emergency care. Federally sponsored disability and death benefits may not be provided as a consequence of a person's status as a member of a State defense force.

"§ 909. Security clearances; criminal history information

"(a) The Secretary of a military department may conduct such background investigations as the Secretary determines necessary and appropriate as a condition to allowing access to classified information by a member of a State defense force.

"(b) A State sponsoring State defense force is encouraged and requested to make available to officials of the State defense force the criminal history information described in section 520a of title 10. The State defense force should maintain a record of criminal history information pertaining to a member in order that security clearances may be expedited in time of mobilization or national emergency.".

(2) The table of chapters at the beginning of such title is amended by adding at the end the following new item:

"9. State Defense Forces ..... 901".

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 109 of title 32, United States Code, is amended to read as follows:

"(a) In time of peace, a State or territory, Puerto Rico, or the District of Columbia may maintain no troops other than those of its National Guard, a naval militia authorized by chapter 659 of title 10, and defense forces authorized by chapter 9 of this title.".

(2) Subsection (b) of such section is amended by striking out "by subsection (c)" and inserting in lieu thereof "by chapter 9 of this title".

(3) Subsections (c), (d), and (e) of such section are repealed.

ADDITIONAL COSPONSORS

S. 269

At the request of Mr. RIEGLE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 269, a bill to prohibit the disposal of solid waste in any State other than the State in which the waste was generated.

S. 479

At the request of Mr. HATCH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 479, a bill to amend the Internal Revenue Code to allow for deduction of qualified adoption expenses and for other purposes.

S. 511

At the request of Mr. INOUYE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 567

At the request of Mr. BOREN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to allow income from the sale of certain used automobiles to be computed on the installment sales method and for other purposes.

S. 720

At the request of Mr. BOREN, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit and for other purposes.

S. 959

At the request of Mr. DASCHLE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 959, a bill to amend title III of the Public Health Service Act to make improvements in the National Health Service Corps scholarship program, and for other purposes.

S. 1277

At the request of Mr. FORD, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. SHELBY], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. EXON], the Senator from North Carolina [Mr. SANFORD], the Senator from Nevada [Mr. BRYAN], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1547

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1547, a bill to provide special rules for health insurance costs of self-employed individuals.

S. 1557

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1557, a bill to amend title 17 United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1560

At the request of Mr. BURNS, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1577

At the request of Mr. BOREN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1678

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1678, a bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center.

S. 1692

At the request of Mr. NUNN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities and passive loss rules.

S. 1737

At the request of Mr. BOSCHWITZ, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1737, a bill to extend the Small Business Development Center Program.

SENATE JOINT RESOLUTION 212

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution commending the decision of the Board of Immigration Appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

HEINZ AMENDMENT NO. 995

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (S. 1750) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, as follows:

At the appropriate place in the bill, add the following:

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget"

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1986, $171,900,000,000;

"(B) with respect to fiscal year 1987, $144,000,000,000;

"(C) with respect to fiscal year 1988, $144,000,000,000;

"(D) with respect to fiscal year 1989, $136,000,000,000;

"(E) with respect to fiscal year 1990, $165,000,000,000;

"(F) with respect to fiscal year 1991, $139,000,000,000;

"(G) with respect to fiscal year 1992, $114,000,000,000;

"(H) with respect to fiscal year 1993, $99,000,000,000;

"(I) with respect to fiscal year 1994, $75,000,000,000;

"(J) with respect to fiscal year 1995, $50,000,000,000;

"(K) with respect to fiscal year 1996, $25,000,000,000;

"(L) with respect to fiscal year 1997, $0.".

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1996"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1997".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1997".

SEC. 5. POINT OF ORDER.

Title IV of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS

"SEC. 408. (a) POINT OF ORDER.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House

of Representatives to consider any bill or resolution that contains a provision—

(1) including the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act in any calculation of the deficit for the United States Government; or

"(2) modifying current law with respect to authorized uses of the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act (except for the use of such reserves for the repayment of cost of living increases for recipients).

"(b) WAIVER OR SUSPENSION.—A point of order under this section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

SEC. 6. TREATMENT OF INTEREST PAYMENTS FROM THE GENERAL FUND.

Section 201(f) of the Social Security Act is amended by inserting "and shall be treated as outlays from the General Fund of the Treasury" before the period.

ASSISTANCE FOR FREE AND FAIR ELECTION IN NICARAGUA

HARKIN AMENDMENTS NOS. 996 THROUGH 998

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill (H.R. 3385) to provide assistance for free and fair elections in Nicaragua, as follows:

AMENDMENT No. 996

Before the period at the end of the bill, insert the following:

"Provided further, That of the funds made available under this Act for the National Endowment for Democracy, no cash assistance shall be provided by the National Endowment for Democracy or its grantees to any political party, alliance or candidate".

AMENDMENT No. 997

Strike out "up to $3,000,000" and all that follows through "1990" and insert in lieu thereof the following: "up to $2,500,000 of the funds made available by section 9 of Public Law 100-276 may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided,* That such assistance may be made available only as follows: (1) up to $1,000,000 for election support and monitoring to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy; and (2) up to $1,500,000 for election support and monitoring of which up to $400,000 shall be made available to ONUVEN, the United Nations Election Monitoring Team in Nicaragua, and of which up to $400,000 shall be made available for the Center for Training and Election Promotion, and of which up to $400,000 shall be made available for the Council of Freely-Elected Heads of Government, and of which up to $300,000 shall be made available for the Center for Democracy: *Provided further,* That the provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That no cash assistance shall be provided by the National Endowment for Democracy or its grantees to any political party, alliance or candidate: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990".

AMENDMENT No. 998

Strike the period at the end of the bill and insert ": *Provided further,* That notwithstanding any other provision of this Act, no funds shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government.

ADAMS (AND HARKIN) AMENDMENTS NOS. 999 AND 1000

(Ordered to lay on the table.)

Mr. ADAMS (for himself and Mr. HARKIN) submitted two amendments to the bill H.R. 3385, supra, as follows:

AMENDMENT No. 999

Strike all after the enacting clause and insert the following:

SEC. 1. TRANSFER OF FUNDS.

That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, are hereby rescinded, but—

(1) $4,500,000 shall be available only for the purposes authorized by section 5111(a) of the Drug-Free Schools and Communities Act of 1986; and

(2) $4,500,000 shall be available for purposes authorized by section 501 of title I of the Omnibus Crime Control and Safe Streets Act for the use by States and units of local government in the States for programs designed to identify and prosecute criminals who sell drugs to children or use children in furtherance of drug-related crimes.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5134(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

AMENDMENT No. 1000

On page 1, line 7, strike all after "Public Law 101-14," and insert in lieu thereof the following: "shall be available only for the purposes authorized by section 5111(a) of the Drug-Free Schools and Communities Act of 1986.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

(a) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, craft, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

DODD AMENDMENT NO. 1001

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 3385, supra, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. STATEMENT OF POLICY.

With respect to the upcoming elections in Nicaragua, presently scheduled to occur on February 25, 1990, it shall be the policy of the United States to encourage the national reconciliation of opposing political forces in that country, to strengthen democratic processes and procedures in cooperation with indigenous democratic forces, and to support election monitoring and oversight by appropriate national, regional, and international groups.

SEC. 2. FUNDING AUTHORITY.

(a) Notwithstanding any other provision of law, of amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available under section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available under section 2 of Public Law 101-14, may be made available by the Administrator of the Agency for International Development, for assistance to further the promotion of democracy and national reconciliation in Nicaragua, except that such assistance shall not exceed—

(1) $7,000,000 in assistance for programs and projects through the National Endowment for Democracy and consistent with the National Endowment for Democracy Act (including the specific requirement contained in section 505 of such Act that "funds may not be expended either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office"); and

(2) $2,000,000 in assistance to support election monitoring and related activities in Nicaragua, of which not less than—

(A) $750,000 shall be available only to support the election-monitoring project of the

United Nations and Organization of American States;

(B) $400,000 shall be available only for the Council of Freely-Elected Heads of Government; and

(C) $350,000 shall be available only for programs of the Center for Democracy.

(b) The provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this section.

SEC. 3 REPORTING REQUIREMENTS.

The Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives shall be informed in writing within 5 days of decisions made to fund specific programs and projects pursuant to this Act.

HARKIN AMENDMENT NO. 1002

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 3385, supra, as follows:

At the end of the amendment, add the following *":Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government."

HARKIN AMENDMENT NO. 1003

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to an amendment intended to be proposed by Mr. ADAMS to the bill H.R. 3385, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. TRANSFER OF FUNDS.

That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, are hereby rescinded, but—

(1) $4,500,000 shall be available only for the purposes authorized by section 5111(a) of the Drug-Free Schools and Communities Act of 1986; and

(2) $4,500,000 shall be available for purposes authorized by section 501 of title I of the Omnibus Crime Control and Safe Streets Act for the use by States and units of local government in the States for programs designed to identify and prosecute criminals who sell drugs to children or use children in furtherance of drug-related crimes.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5134(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

OMNIBUS BUDGET RECONCILIATION ACT

MITCHELL (AND OTHERS) AMENDMENT NO. 1004

(Ordered to lie on the table.)

Mr. MITCHELL (for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD, Mr. BENTSEN, Mr. PACKWOOD, and Mr. ARMSTRONG) proposed an amendment to the bill S. 1750, supra, as follows:

In title I, strike the following:

Sec. 1102. Oat acreage limitation program.

Sec. 1106. Technical amendments to 1985 farm bill.

Sec. 1107. Amendment to the Disaster Assistance Act dealing with replanted acreage (ghost acres).

Sec. 1201(b). Use of export enhancement program to promote the sale of meat in U.S. commissaries.

Sec. 1203. Prohibition on duty drawback claims by exporters using exports promotion programs.

Sec. 1301. REA refinancing and interest write-down.

Sec. 1302. New commercial products research.

Sec. 1401-1413. Soybean Promotion Program.

Sec. 1501-1507. Cotton Promotion Program.

Sec. 1601-1617. Pecan Promotion Program.

Sec. 1701-1714. Mushroom Promotion Program.

Sec. 1801-1814. Lime Promotion Program.

Sec. 1901-1907. Potato Promotion Program.

Sec. 1921-1926. Honey Promotion Program.

Sec. 1941. Kiwifruit, Nectarines Program.

Sec. 1951. Papaya Marketing Order.

Sec. 1961. Egg Promotion Program.

Sec. 1971. Peanut Inspection and Quality Requirements.

Sec. 1981. Vidalia Onions Marketing Order.

In title II, strike the following:

Sec. 203-205. Flood insurance studies.

In title IV, strike the following:

Sec. 4005-4022. CFC regulatory program and phase-out of CFCs.

Sec. 4023-4028. Methane assessment program.

Sec. 4031. CFC advisory committees.

Sec. 4032. CFC grant authorization ($100 million).

Sec. 4034. Authorization for EPA abatement and R&D activities.

Sec. 4102. Diversion of NRC penalties to educational institutions.

Sec. 4301. Onondaga Lake, NY grant programs ($0.5 to $1.0 billion authorization).

Sec. 4401. Magnetic levitation transportation grant program ($6 million authorization).

In title V, strike the following:

Sec. 5001. Commission on child disability.

Sec. 5002(b). Require Pediatrician involvement in child disability determinations.

Sec. 5014. Allow concurrent SSI/food stamp applications.

Sec. 5023. Penalty for failure to implement the JOBS program.

Sec. 5031. Foster care administrative costs.

Sec. 5033. Increase Child Welfare Authorization from $266 million to $400 million.

Sec. 5045. Good cause exemption.

Sec. 5101(b). Budget neutral recalibration of PPS rates.

Sec. 5107(a-c). Wage index requirements: Annual update, budget neutrality, use State Hospital codes.

Sec. 5108. Finger Lakes Waiver and GAO report.

Sec. 5109. New base period for exempt hospital target amounts.

Sec. 5121. GAO Study of skilled nursing facility costs.

Sec. 5123. Intermediate sanctions for psychiatric hospitals.

Sec. 5124(b-d). Other hospice requirements and studies.

Sec. 5125. Budget neutral allowance of certifications by nurse practitioners for certain services.

Sec. 5126. Prohibition on nursing home balance billing.

Sec. 5128. Permitting dentists to serve as medical directors.

Sec. 5203(e). HHS study of portable X-rays.

Sec. 5222. Definition of physician office labs.

Sec. 5223. Trip fees for clinical laboratories.

Sec. 5224. Moratorium and study on laboratory demonstration.

Sec. 5226. CRNA fee schedule study.

Sec. 5233(f). Study on eliminating 190 day limit on inpatient psychiatric care.

Sec. 5235. ProPAC study on out-patient hospital costs.

Sec. 5236. Extension of municipal health services demonstrations.

Sec. 5238. Review of new technologies.

Sec. 5302. ESRD changes and studies.

Sec. 5303. Reconsideration of PRO denials before notice to beneficiary.

Sec. 5307. Require flexibility in determining the base year for medical education costs.

Sec. 5308. Required studies on graduate medical education.

Sec. 5309. Continued use of the same Home Health Wage index.

Sec. 5310. GAO study of home health paperwork.

Sec. 5311. Modifications to advisory committee on home health.

Sec. 5314. ESRD Networks.

Sec. 5501(a-d). Restrictions on physician referrals.

Sec. 5602. Prohibit HCFA from denying FFP for day habilitation services in certain instances.

Sec. 5603(a). Rent or food costs attributable to a live-in personal care are allowable.

Sec. 5603(b). Allow individuals from a decertified ICF/MR to get home care.

Sec. 5603(c). Technical changes to habilitive services.

Sec. 5603(d). Prohibit HHS from issuing certain rules.

Sec. 5603(e). Eliminate expiration date for corrective plans.

Sec. 5603(f). Allow states to deliver home care through substate entities.
Sec. 5606. Budget Neutral long-term care waiver for New York.
Sec. 5607. Modifications to "deemed" status under Medicaid.
Sec. 5608. Minnesota prepaid Medicaid demonstration.
Sec. 5609. New Jersey respite care demonstration.
Sec. 5610. Demo of Minnesota Family Investment Plan.
Sec. 5612. Retroactive coverage of Medicare cost sharing for OMBs.
Sec. 5644. Disproportionate share hospitals.
Sec. 5645. Intermediate sanctions for psychiatric hospitals.
Sec. 5702. Collection of Black Lung overpayments.
Sec. 5704. Technical changes to the Pepper Commission.
Sec. 5705. Required study of HHS personnel.
Sec. 5706. OTA study of closed caption TV at hospital.
Sec. 5111(a). Eliminate Urban-Rural Payment Differential.
Sec. 5111(c). Establish Medicare Geographic Classification Appeals Board.
Sec. 5111(d). Increase Authorization for rural hospital transition grants by $10 million per year.
Sec. 5111(e). Telecommunications demo (subject to approps).
Sec. 5111(g). Rural hospital wage index study.
Sec. 5206(h). Patient outcome assessment research authorization.
Sec. 5301(b-c). Require HHS to disclose payment methodology for HMOs and other requirements and studies.
Sec. 5301(d). Waiver of Certain HMO rules for Health-Net.
Sec. 5301(e). Physician Payment Incentive Restrictions.
Sec. 5301(f). Extend Watts Waiver for 4 years.
Sec. 5301(g). Making Benefit Stabilization fund for HMOs permanent.
Sec. 5301(h). Tennessee Medicaid Enrollment Waiver.
Sec. 5301(i). CHP(Long Island) Waiver of HMO requirements.
Sec. 5305(b). Medicare Secondary Payor protections for the working aged.
Sec. 5305(d). Precludes HHS from requiring Matching based on private activities for intermediaries.
Sec. 5305(f). MSP study by GAO.
Sec. 5305(g). Medicare as secondary payor for drug claims.
Sec. 5312. Authorization for Essential Community Hospital Demonstration.
Sec. 5313(b). Establish grant program for rural health centers; at $13 million authorization level.
Sec. 5313(c). Establishment of Advisory Commission on Rural Health.
Sec. 5313 (d). Matching Grants to establish state offices of rural health at $4 million authorization level.
Sec. 5313 (e). Sense of the Senate on ProPAC representation.
Sec. 5604. Allow state matching payments from voluntary contributions or state taxes.
Sec. 5624. Increase and alter maternal and child health block grant authorization to $711 million.
Sec. 5625. Annual report on health status of children.
Sec. 5626. Required development of model Medicaid application.
Sec. 5627. Various administrative and report requirements on HHS secretary.
Sec. 5630. Require adequate payments for obstetrical and pediatric services.
Sec. 5635. Required handbook on child health and authorization for funding.
Sec. 5636. Demonstration project to improve access of pregnant women and infants to MDs.
Sec. 5640. Clarification of termination when no child is revenues; in household.
Sec. 5643 (a). Delay implementation of 2/2/89 rule.
Sec. 5643 (c). No delegation of responsibility.
Sec. 5643 (d). Resident's rights to refuse inter-facility transfer.
Sec. 5643 (f). Patient's rights to records.
Sec. 5643 (g). Regulatory requirement on screening review.
Sec. 5643 (h). Required regulations.
Sec. 5643 (j). Revision of alternative disposition plans.
Sec. 5643 (k). Required state reports.
Sec. 5643 (l). Definition of mentally-ill.
Sec. 5643 (m). Clarification with respect to admission and readmission.
Sec. 5643 (n). Substitution of "specialized services" for "active treatment".
Sec. 5643 (o). Maintaining regulator of standards.
Sec. 5643 (p). Requirements for nurse training waivers.
Sec. 5643 (q). Study of staffing requirements.
Sec. 5643 (r). Clarification of dually eligible facilities.
Sec. 5643 (t). Nurse Aide Registry.
Sec. 5002 Preeffectuation review requirement for disabled children.
Sec. 5003. Outreach program for disabled children.
Sec. 5004. $30 monthly SSI payment for disabled children without regard to parents' income.
Sec. 5005. Benefits for children of military stationed abroad.
Sec. 5006. Treat royalties as earned income.
Sec. 5007. SSI benefits for those who lose SSDI.
Sec. 5008. Exclude impairment-related work expenses at eligibility.
Sec. 5009. Reimburse for vocational rehabilitation during nonpayment of SSI benefits.
Sec. 5010. SSI Outreach for Adults.
Sec. 5011. Exclude gifts of transportation tickets.
Sec. 5012. Exclude interest on burial spaces.
Sec. 5013. Reduce time during which resources of separated couples treated as jointly available.
Sec. 5016. Exclusion of Agent Orange settlements in determining eligibility for needs tested programs.
Sec. 5021. Emergency assistance and AFDC special needs.
Sec. 5022. Minnesota AFDC demonstration.
Sec. 5032. Extend ceilings and transfer authority for foster care.
Sec. 5034. Increase foster parent training reimbursement.
Sec. 5035. Require health and education plans and require comprehensive health plans.
Sec. 5036. Authorization for Independent Living Program.
Sec. 5037. Improve data collection and accountability.
Sec. 5041. Extend IRS Intercept for five more years.
Sec. 5042. Eliminate $500 minimum for tax refund offset.
Sec. 5043. Extend IRS authority to collect child support.
Sec. 5044. Allow tax refund offset for child and spousal support when combined in court order.
Sec. 5051. Self-employment demonstration program.
Sec. 5104. Blood clotting factors for hemophelia patients.
Sec. 5105. Exemption of cancer hospitals from PPS.
Sec. 5106. Added payments for "Lugar" and related hospitals.
Sec. 5110. Corrected determinations of wage index to 10/1/87.
Sec. 5111 (b). Extend higher payment for some rural referral centers.
Sec. 5111 (f). Added payment for Medicare dependent hospitals.
Sec. 5111 (h). Added payments for rural disproportionate share hospitals.
Sec. 5112. Permitting Medicare buy-in for continued benefits for the disabled..
Sec. 5122. "Buy-In" under part A for qualified medicare beneficiaries.
Sec. 5124 (a). Increase payments to hospices.
Sec. 5127. Classification of, and increased payment for, sole community hospitals.
Sec. 5203 (c). One year exemption of nuclear physicians.
Sec. 5203 (d). "Split billing" exceptions for interventionist radiologists.
Sec. 5204 (b). CRNA fee schedule.
Sec. 5207 (a). Inclusion of nurse midwives as covered services for rural health clinics.
Sec. 5207 (b). Expanded areas for rural health clinics.
Sec. 5207 (c). Coverage of nurse practitioners in rural areas.
Sec. 5227. Clarifying coverage of certified nurse midwife services.
Sec. 5228. Add coverage of erythropoietin when self-administered.
Sec. 5229. Modifications to therapeutic shoes demonstration.
Sec. 5233 (a-c). Expand coverage of psychologists.
Sec. 5233 (d-e). Eliminate limit on mental health services.
Sec. 5234. Expand skilled nursing facility coverage to nurse practitioners.
Sec. 5237. Add coverage of clinical social workers.
Sec. 5301 (a). Phase in increased payments to HMOs.
Sec. 5301 (j). Limit on emergency medical services and out of area coverage.
Sec. 5301 (k). Humana 50/50 waiver.
Sec. 5305 (c). Special enrollment period for disabled employees.
Sec. 5305 (e). Treatment of religious orders under MSP.
Sec. 5306. Prohibits HHS from collecting repayments from certain nursing and allied health.
Sec. 5313 (a). Expansion of medical education demos.
Sec. 5601. Disregard of COLAs in certain Medicaid eligibility determinations.
Sec. 5605. Exclude from countable income certain veteran's benefits.
Sec. 5611. Oregon Medicaid Demonstration Program.
Sec. 5613. Long-term care waiver extension.
Sec. 5614. Improve hospice payment.
Sec. 5615. Increase Medicaid payment for rural health clinics.
Sec. 5616. Mandatory coverage of certain low-income pregnant women and children.
Sec. 5617. Optional coverage of certain low-income pregnant women and children.

Sec. 5618. Continuous eligibility for pregnant women, infants and children under 3 years old.
Sec. 5619. Various increases in hospital payments for children.
Sec. 5620. Required coverage of nurse practitioners.
Sec. 5621. Optional state coverage of home services for children.
Sec. 5622. Optional coverage of home visitor services.
Sec. 5623. Increase home care "slots".
Sec. 5628. EPSDT expansions.
Sec. 5629. Require coverage of all SSI children.
Sec. 5631. Health care for foster care children.
Sec. 5632. Required use of most recent data if it increases matching payments to states.
Sec. 5633. Optional outreach for pregnant women and infants.
Sec. 5634. Required Medicaid-WIC coordination.
Sec. 5637. Medicaid coverage of community health clinic services.
Sec. 5638. Cost-limited Medicaid "buy-in" demo.
Sec. 5639. Cost-limited low income family demo.
Sec. 5641. Institutions for mental disease.
Sec. 5642. Required Medicaid payment for the poor disabled enrolling in Medicare.
Sec. 5703. National Commission on Children.
In title VI, strike the following:
Sec. 6108. Extension of IRS assistance in case of undercover operations.
Sec. 6208(c). Treasury study of debt vs. equity.
Sec. 6109. Allocation of taxes for Railroad Retirement Trust Fund.
Sec. 6327. Coal industry pension.
Sec. 6328. Coal industry pension study.
Sec. 6331. Require exercise of Treasury regulatory authority.
Sec. 6513. Essential Air Service.
Sec. 6517. Polio vaccines.
Sec. 6651. Study on Sec. 833 deduction.
Sec. 6661. IRS notice on withholding.
Sec. 6663. Increase Joint Tax refund review threshold.
Sec. 6685. Deductions for disabled.
Sec. 6686. OPIC tax exemption
Sec. 6714. Penalty reform.
Sec. 6715. Penalty reform.
Sec. 6738. Penalty reform.
Sec. 6904. Study of advance payments.
Sec. 6905. Program to increase public awareness.
Sec. 6906. Demonstration projects for health insurance to children.
Sec. 6508(b). Wetlands trust fund.
Sec. 6711-6743. Penalty reform.
Sec. 6931. Treatment of transactions in which Federal financial assistance is provided (financial institutions).
Sec. 6672. Self-dealing involving private foundations.
Sec. 6115 (b) and (c). Mortgage Credit Certificate.
Sec. 6211. Small business exemption from recognition of gain or loss on liquidating sales.
Sec. 6212. Rural electric co-ops, safe harbor leasing.
Sec. 6301-6303. Repeal Section 89.
Sec. 6303(a). Leased employees and dependent care.
Sec. 6303 (b) and (c). Dependent care credit.
Sec. 6341. Sec. 401(k) plans for tax-exempt organizations.
Sec. 6342. Modify geographic limitation on VEBAs.
Sec. 6344. Employer provided transportation expenses.
Sec. 6345. Empty seat rule & fringe benefits.
Sec. 6404. Modifies treatment of certain scholarships received by non-resident aliens.
Sec. 6405(a). Exception from passive foreign investment company rules for export trade corporations.
Sec. 6405(b). Leased assets for the passive foreign investment company asset test.
Sec. 6406. Overseas DOD personnel allowances.
Sec. 6510. Small diesel fuel tax relief.
Sec. 6511. Reduce BATF occupation tax.
Sec. 6512. Statute of Limitations for occupational taxes.
Sec. 6514. Gasohol—tolerance levels for blending.
Sec. 6515. Facilitate tax-free purchase of fuels by crop dusters.
Sec. 6516. Classify ETBE as eligible for ethanol fuels tax credit.
Sec. 6611. Modifications of minimum tax.
Sec. 6623. Drought deferral extension.
Sec. 6624. Farm Debt.
Sec. 6625. Contributions to replace contaminated water supplies.
Sec. 6626. Timber passive loss material participation exception.
Sec. 6627. Annual accrual method of accounting.
Sec. 6628. Installment sales of residential lots & timeshares by C corporations.
Sec. 6629. Recapture & cattle breeders.
Sec. 6630. Modify rules for cooperative patronage income.
Sec. 6630(A). Treatment of hedging transactions by REITS.
Sec. 6630(C). Income averaging for farmers.
Sec. 6641. Rules concerning tax-exempt bonds issued by 501(c)(3) organizations.
Sec. 6642. Refunding bonds.
Sec. 6643. Tax-exempt bonds for sports facilities.
Sec. 6652. Insurance reserves and tax deductions.
Sec. 6671. Use of common investment funds by private foundations.
Sec. 6681. Deduction for certain adoption expenses.
Sec. 6683. Marginal oil and percentage depletion.
Sec. 6684. Recovery period for rental tuxedos.
Sec. 6691. Repeal estate freeze rules.
Sec. 6692. Generation-skipping transfer tax.
Sec. 6694. Allow waiver of right of contribution (Sec. 2207A).
Sec. 6695. Exclude annual exclusion gifts from Sec. 2035.
Sec. 6696. Terminal interest rules.
Sec. 6801-6882. Technical corrections.
Sec. 6901. Health insurance credit.
Sec. 6902. Dependent care tax credit.
Sec. 6903. Earned income tax credit and eligibility.
Sec. 6921-6923. IRAs.
Sec. 6932. State Housing Agency Bonds.
Sec. 6815. Treatment of split annuities.
Sec. 6110. Extends Sec. 29 credit.
Sec. 6611(d). Gifts of appreciated property.
Sec. 6101-6107. Extension of expiring provisions.
Sec. 6111-6115(a). Extension of expiring provisions.
In title VIII, strike the following:
Sec. 8031-8043. Pension portability.
Sec. 8104. Study of indebtedness.
Sec. 8106. Sanctions against institutions and institutions' agents.
Subtitle C. Low Income Treatment Assistance Program.
Subtitle D. Stewart B. McKinney Homeless Assistance Act.
Subtitle E. Health Services Research.
Subtitle F. State Comprehensive Mental Health Services Plan.
Sec. 8001-8003. Fiduciary responsibilities relating to plan terminations.
Sec. 8011. Transfer of excess pension assets to retiree health accounts.
Sec. 8021. Occupational safety and health.
Sec. 8022(a)(1)-8022(a)(4). ERISA violations.
Sec. 8023. Mine safety and health.
Subtitle B, Chapter 2 Treatment of bilingual education awards.
Strike all of title V and VI and insert in lieu thereof the following:

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 5000. AMENDMENT OF THE SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

Subtitle C—Income Security

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

SEC. 5101. PROSPECTIVE PAYMENT HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) in subclause (V), by striking "1990" and inserting in lieu thereof "1991" and redesignating such subclause as subclause (VI); and

(3) by inserting after subclause (IV) the following new subclause:

"(V) for fiscal year 1990, the market basket percentage increase plus 3 percentage points for hospitals located in a rural area, the market basket percentage increase minus 0.7 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 1.4 percentage points for hospitals located in other urban areas, and".

SEC. 5102. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "1.89" and inserting in lieu thereof "1.752"; and

(B) in subclause (II), by striking "1.43" and inserting in lieu thereof "1.329".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987"; and

(B) in subclause (II)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1989.

SEC. 5103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1990.

Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) in clause (iii), by striking "and";

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) 13.5 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1990 (excluding such payments for such fiscal year for hospitals described in section 1815(e)(1)(B)).".

PART II—PROVISIONS RELATING TO PART B OF MEDICARE

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

SEC. 5201. UPDATING PAYMENTS FOR PHYSICIANS' SERVICES.

(a) DELAYING MEI UPDATE UNTIL APRIL 1.—

(1) IN GENERAL.—Subject to the amendments made by this section, any increase or adjustment in prevailing or customary charges, fee schedule amounts, maximum allowable actual charges, and other limits on actual charges with respect to physicians' services and other items and services described in paragraph (2) under part B of title XVIII of the Social Security Act which would otherwise occur as of January 1, 1990, shall be delayed so as to occur as of April 1, 1990, and, notwithstanding any other provision of law, the amount of payment under such part for such items and services which are furnished during the period beginning on January 1, 1990, and ending on March 31, 1990, shall be determined on the same basis as the amount of payment for such services furnished on December 31, 1989.

(2) ITEMS AND SERVICES COVERED.—The items and services described in this paragraph are items and services (other than ambulance services) for which payment is made under part B of title XVIII of the Social Security Act on the basis of reasonable charge or on the basis of a fee schedule if the fee schedule is subject to an annual adjustment based on the percentage increase in the MEI (as defined in section 1842(i)(3) of such Act).

(3) EXTENSION OF PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each participation agreement in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990;

(B) the effective period for such agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary shall provide an opportunity for physicians and suppliers to enroll as participating physicians and suppliers before April 1, 1990;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians and suppliers for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians and suppliers for such period; and

(D) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide such physicians, at the beginning of the 9-month period beginning on April 1, 1990, with such a list for such 9-month period.

An agreement with a participating physician or supplier described in subparagraph (A) in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician or supplier requests on or before December 31, 1989, that the agreement be terminated.

(b) UPDATE.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iv) For purposes of this part for physicians' services furnished in 1990, after March 31, 1990, the percentage increase in the MEI is—

"(I) zero percent for radiology services,

"(II) 2 percent for other services (other than primary care services), and

"(III) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

SEC. 5202. REDUCTION IN PAYMENTS FOR CERTAIN OVERVALUED PROCEDURES.

(a) REDUCTION IN PAYMENTS FOR IDENTIFIED OVERVALUED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for 1989 reduced by 15 percent or, if less, ¼ of the percent (if any) by which the prevailing charge otherwise applied in the locality in 1989 exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of (I) the reduced national weighted average prevailing charge for the service (specified under clause (ii)) and (II) the adjustment factor (specified under clause (iii) for the locality.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified under subparagraph (C)(ii)) reduced by the percentage change (specified under subparagraph (C)(iii)) for the service.

"(iii) The 'adjustment factor' for a locality is .54 plus the product of .46 and the geographic practice cost index value (specified under subparagraph (C)(iv)) for the locality.

"(C) For purposes of this paragraph:

"(i) The physicians' services specified in this clause are the physicians' services specified in Appendix A of the explanation of subtitle B of title X (Committee on Ways and Means) contained in the report of the Committee of the Budget, House of Representatives, to accompany H.R. 3299 ('Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is of physicians' services that have been identified as overpriced by at least 15 percent based on a comparison of payments for such services under a resource-based relative value scale and of the national average prevailing charges under this part.

"(ii) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in clause (i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(iii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in the Appendix referred in clause (i).

"(iv) The geographic practice cost index value specified in this clause for a locality is such value specified for the locality in the Appendix referred to in clause (i).

"(D) In the case of a reduction in the prevailing charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act is amended—

(A) in clause (ii)(II), by inserting "or (b)(14)(A)" after "(b)(10)(A)", and

(B) in clause (iii)(II), by striking "or (b)(11)(C)(i)" and inserting "(b)(11)(C)(i), or (b)(14)(A)".

SEC. 5203. REDUCTION IN PAYMENTS FOR RADIOLOGY SERVICES.

(a) FEE SCHEDULES FOR RADIOLOGIST SERVICES REDUCED.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) 1990 FEE SCHEDULES.—(i) For radiology services furnished under this part during 1990, after March 31 of such year, the fee schedules under this subsection shall be 95 percent of the amounts permitted under the fee schedules developed for 1989 under subparagraph (A).

"(ii) For portable X-ray services furnished under this part during 1990, after March 31 of such year, clause (i) shall be applied by substituting '97' for '95'.".

(b) REDUCTION IN PREVAILING CHARGES FOR RADIOLOGY SERVICES.—(1) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(15) The prevailing charge levels for radiology services furnished during 1990, after March 31 of such year, shall be 98 percent of the prevailing charge levels for such services furnished during 1989.".

(2) Section 1842(j)(1)(D) of such Act, as amended by subsection (a)(2) of this section, is further amended—

(i) in clause (ii)(IV), by inserting "or (b)(15)" before the comma at the end, and

(ii) in clause (iii)(II), by striking "or (b)(14)(A)(i)" and inserting "(b)(14)(A), or (b)(15)".

(c) 1-YEAR EXEMPTION OF NUCLEAR PHYSICIANS.—(1) In applying section 1834(b)(6) of the Social Security Act with respect to services furnished during 1990, after March 31, of such year, the term "radiologist services" does not include nuclear medicine services performed by, or under the direct supervision of, a physician who is certified by the American Board of Nuclear Medicine or by the American Board of Radiology (with Special Competence in Nuclear Radiology).

(2) The Secretary of Health and Human Services shall make such adjustments in the fee schedule under section 1834(b) of the Social Security Act as may be necessary to ensure that the exclusion required by paragraph (1) neither increases nor decreases the total amount that would have been expended in 1990 for radiologist services (including the services excluded pursuant to this paragraph) but for the exclusion.

(d) INTERVENTIONAL RADIOLOGISTS.—In applying section 1834(b) of the Social Security Act to radiology services furnished in 1990, the exception for "split billing" set forth at section 5262J of the Medicare Carriers Manual shall apply to services furnished in 1990 in the same manner and to the same extent as the exception applied to services furnished in 1989.

SEC. 5204. ANESTHESIA SERVICES.

For purposes of payment for anesthesia services (whether furnished by a physician or by a certified registered nurse anesthetist) furnished under part B of title XVIII of the Social Security Act on or after April 1, 1990, the time units shall be counted based on actual time rather than rounded to full time units.

SUBPART B—PAYMENT FOR OTHER SERVICES

SEC. 5221. CLINICAL DIAGNOSTIC LABORATORY SERVICES.

(a) SETTING FEE SCHEDULE UPDATE FOR 1990 AT 3 PERCENT.—Paragraph (2)(A)(ii) of section 1833(h) (42 U.S.C. 1395l(h)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) in subclause (II), by striking "1988." and inserting "1988, and"; and

(3) by adding at the end the following new subclause:

"(III) the annual adjustment under clause (i) to become effective on April 1, 1990, shall be an increase of 3 percent.".

(b) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Paragraph (4)(B) of such section is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii)—

(A) by striking "and so long as a fee schedule for the test has not been established on a nationwide basis," and inserting "and before January 1, 1990,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) after December 31, 1989, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

SEC. 5222. DURABLE MEDICAL EQUIPMENT.

(a) DELAY IN AND REDUCTION OF UPDATE FOR 1990.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in clause (i), by striking "in 1989" and inserting "in 1989 and the first 3 months of 1990",

(B) in clause (i), by striking "or" at the end,

(C) in clause (ii), by striking "for the preceding year" and inserting "for the last day of the preceding year",

(D) by redesignating clause (ii) as clause (iii), and

(E) by inserting after clause (i) the following new clause:

"(ii) in the remaining months of 1990, is the amount specified in clause (i) increased by 3 percent, or".

(2) MISCELLANEOUS DEVICES AND ITEMS AND OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) in the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) to the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or".

(4) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (7)(A)(i), by striking "this subparagraph" and inserting "this clause";

(B) in paragraph (8)(C)(i), by striking "(A)(ii)(I)" and inserting "(A)(ii)"; and

(C) in paragraphs (8) and (9)—

(i) in subparagraph (B)(i), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)"; and

(ii) in clauses (ii) and (iii) of subparagraph (C), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)".

(b) ADJUSTMENT BY SECRETARY FOR OVERPRICED ITEMS.—Paragraph (1) of section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair or transcutaneous electrical nerve stimulator furnished on or after April 1, 1990, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(c) TREATMENT OF POWER DRIVEN WHEELCHAIRS.—

(1) AS ROUTINELY PURCHASED.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (i),

(B) by adding "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) which is a power-driven wheelchair (other than a customized wheelchair that is classified as a customized item under paragraph (4) pursuant to criteria specified by the Secretary),".

(2) AS CUSTOMIZED ITEM.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall by regulation specify criteria to be used by carriers in making determinations on a case by case basis as whether to classify power-driven wheelchairs as a customized item (as described in section 1834(a)(4) of the Social Security Act) for purposes of reimbursement under title XVIII of the Social Security Act.

(3) The amendments made by paragraph (1) shall apply to items furnished on or after April 1, 1990.

SEC. 5223. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 13.5 percent for services provided in cost reporting periods beginning during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a sole community hospital (as defined in section 1886(d)(5)) or is eligible to be paid as a sole community hospital for the period.

"(III) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a hospital (described in section 1815(e)(1)(B)) for the period.

"(IV) The Secretary shall apply the reduction described in subclause (I) to services for which payment may be based on a blended rate under section 1833(n) or 1833(i)(3); however, the reduction shall be applied only to that portion of the payment based on hospital costs.".

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

SEC. 5301. DELAY IN PAYMENTS IN FISCAL YEAR 1990.

(a) PART A.—Section 1816(c) (42 U.S.C. 1395h(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and inserting "25"; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 15 days.".

(b) PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and "17" and inserting "25" and "20", respectively; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 15 days.".

(c) NECESSARY RESULT.—Any transfer of outlays, receipts, or revenues pursuant to this section, is a necessary (but secondary) result of a significant policy change for purposes of section 202 of Public Law 100-119.

SEC. 5302. MEDICARE AS SECONDARY PAYER.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

(A) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(12) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

"(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)) from a qualified employer in a previous year.

"(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages from a qualified employer in a previous year—

"(I) the name and TIN of the medicare beneficiary, and

"(II) the name and TIN of the spouse.

"(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

"(C) DISCLOSURE BY HEALTH CARE FINANCING ADMINISTRATION.—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

"(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

"(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

"(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

"(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

"(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

"(D) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818 or section 1818A.

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means—

"(I) any group health plan (as defined in section 5000(b)(1)), and

"(II) any large group health plan (as defined in section 5000(b)(2)).

"(iii) QUALIFIED EMPLOYER.—The term 'qualified employer' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

"(F) TERMINATION.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1991, and

"(ii) any request made before such date for information relating to—

"(I) 1990 or thereafter in the case of subparagraph (A), or

"(II) 1991 or thereafter in the case of subparagraph (B)."

(B) SAFEGUARDS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by inserting "(l)(12)," after "(e)(1)(D)(iii),".

(ii) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(iii) Paragraph (4) of section 6103(p) of such Code is amended in the material preceding subparagraph (A) by striking "or (9) shall" and inserting "(9), or (12) shall".

(iv) Clause (ii) of section 6103(p)(4)(F) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(v) The next to the last sentence of paragraph (4) of section 6103(p) of such Code is amended by inserting "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent" before ", this paragraph".

(C) PENALTY.—Paragraph (2) of section 7213(a) of such Code is amended by striking "or (10)" and inserting "(10), or (12)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on October 1, 1989.

(2) RESPONSIBILITIES OF HCFA.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)), as amended by subsection (b)(1) of this section, is amended by inserting after paragraph (4) the following new paragraph:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—

"(A) REQUESTING MATCHING INFORMATION.—

"(i) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, not less often than annually, transmit to the Secretary of the Treasury a list of the names and TINs of medicare beneficiaries (as defined in section 6103(l)(12) of the Internal Revenue Code of 1986) and request

that the Secretary disclose to the Commissioner the information described in subparagraph (A) of such section.

"(ii) ADMINISTRATOR.—The Administrator of the Health Care Financing Administration shall request, not less often than annually, the Commissioner of the Social Security Administration to disclose to the Administrator the information described in subparagraph (B) of section 6103(l)(12) of the Internal Revenue Code of 1986.

"(C) DISCLOSURE TO FISCAL INTERMEDIARIES AND CARRIERS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers the information received under subparagraph (B) for the purposes of carrying out this subsection.

"(D) CONTACTING EMPLOYERS.—

"(i) IN GENERAL.—With respect to each individual (in this subparagraph referred to as an 'employee') who was furnished a written statement under section 6051 of the Internal Revenue Code of 1986 by a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such Code), as disclosed under subparagraph (C), the appropriate fiscal intermediary or carrier shall contact the employer in order to determine during what period the employee or employee's spouse may be (or have been) covered under a group health plan of the employer and the nature of the coverage that is or was provided under the plan (including the name, address, and identifying number of the plan).

"(ii) EMPLOYER RESPONSE.—Within 30 days of the date of receipt of the inquiry, the employer shall notify the intermediary or carrier making the inquiry as to the determinations described in clause (i). An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate notice in accordance with the previous sentence shall be subject to a civil money penalty of not to exceed $1,000 for each individual with respect to which such an inquiry is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) SUNSET ON REQUIREMENT.—Clause (ii) shall not apply to inquiries made after September 30, 1991.".

(B) DEADLINE FOR FIRST REQUEST.—The Commissioner of Social Security shall first—

(i) transmit to the Secretary of the Treasury information under paragraph (5)(A)(i) of section 1862(b) of the Social Security Act (as inserted by subparagraph (A)), and

(ii) request from the Secretary disclosure of information described in section 6013(l)(12)(A) of the Internal Revenue Code of 1986,

by not later than October 15, 1989.

PART IV—MEDICARE PART B BASIC PREMIUM

SEC. 5401. ONE-YEAR EXTENSION OF PART B PREMIUM MINIMUM.

Section 1839(e) (42 U.S.C. 1395q(e)) is amended by striking "1990" each place it appears and inserting in lieu thereof "1991".

Subtitle B—Medicaid

SEC. 5501. MISCELLANEOUS MEDICAID PROVISIONS.

(a) NURSE AIDE TRAINING.—

(1) DELAY IN REQUIREMENT.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is amended—

(A) in subparagraph (A), by striking "January 1, 1990" and inserting "October 1, 1990", and

(B) in subparagraph (B), by striking "July 1, 1989" and "January 1, 1990" and inserting "January 1, 1990" and "October 1, 1990", respectively.

(2) WAIVERS FOR CERTAIN NURSE AIDES.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is further amended—

(A) in subparagraph (A), by striking "any individual" and inserting in lieu thereof "any individual (except an individual described in subparagraph (H))", and

(B) by inserting at the end thereof the following new subparagraph:

"(H) EXCEPTIONS TO GENERAL RULE OF REQUIRED TRAINING OF NURSE AIDES.—

"(i) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (A), a State shall waive such requirements with respect to an individual who—

"(I) was hired as a nurse aide by an employer before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that such individual has served as a nurse aide at one or more facilities of the same employer in the State for at least 24 consecutive months, and

"(III) has completed a 15-hour course of instruction in basic skills developed by the State.

"(ii) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (a), a State shall waive such requirements with respect to an individual who—

"(I) was employed as a nurse aide before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that he or she has served as a nurse aide in the State in the preceding 24 month period, and

"(III) has completed a nurse aide training program that was required by the State and established before December 22, 1987.".

(b) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is amended by striking "October 1, 1989" and inserting in lieu thereof "April 1, 1991".

(c) EFFECTIVE DATES.—Except as provided in subparagraph (B), the amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

Subtitle C—Income Security

SEC. 5601. PROPOSED AMENDMENTS TO AUTHORIZE THE OFFSET OF UNPAID CONTRIBUTIONS FROM UNEMPLOYMENT COMPENSATION (WITH TECHNICAL AMENDMENTS).

(a) IN GENERAL.—Section 303 is amended by adding at the end the following new subsection:

"(j)(1) The State agency charged with administration of the State law may deduct and withhold from the unemployment compensation otherwise payable to an individual an amount equal to the unpaid contributions, as defined in section 3306(g) of the Federal Unemployment Tax Act (26 U.S.C. 3306(g)), owed by the individual to the State's unemployment fund.

"(2) Any amount deducted and withheld under this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State's unemployment fund in satisfaction of the contributions owed.

"(3) For purposes of this subsection, the term 'unemployment compensation' means any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).".

(b) DEDUCTIONS FROM BENEFITS.—Section 303(a)(5) is amended by striking out the last proviso and inserting in lieu thereof the following:

"*Provided further*, That amounts may be deducted from unemployment benefits and otherwise payable to an individual and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of this section.".

(c) FEDERAL UNEMPLOYMENT TAX.—Section 3304(a)(4) of the Federal Unemployment Tax Act is amended by amending subparagraph (D) thereof to read as follows:

"(D) amounts may be deducted from unemployment benefits and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of section 303 of the Social Security Act."

TITLE VI—REVENUE MEASURES

SEC. 6001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE VI—REVENUE MEASURES

Subtitle A—Corporate Provisions

SEC. 6201. DIVIDEND RECEIVED DEDUCTION NOT ALLOWED FOR DIVIDENDS ON PREFERRED STOCK OF CERTAIN SUBSIDIARIES.

(a) IN GENERAL.—Section 246 (relating to rules for applying deduction for dividends received) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEDUCTION DISALLOWED ON PREFERRED STOCK OF SUBSIDIARY TO EXTENT TAXABLE INCOME REDUCED BY LOSSES OF GROUP.—

"(1) GENERAL RULE.—No deduction shall be allowed under section 243, 244, or 245 in respect of the disallowed portion of any applicable dividend.

"(2) APPLICABLE DIVIDEND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable dividend' means any dividend—

"(i) on stock described in section 1504(a)(4) in any corporation which is a member of an affiliated group filing a consolidated return other than the common parent (hereinafter in this subsection referred to as the 'distributing corporation'), and

"(ii) paid out of the current earnings and profits of the distributing corporation for the taxable year (as determined under section 316(a)(2)).

"(B) LIMITATION BASED ON CONSOLIDATED LOSS OFFSET.—The aggregate amount of dividends treated as applicable dividends under subparagraph (A) shall not exceed the consolidated loss offset of the distributing corporation.

"(3) DISALLOWED PORTION.—For purposes of this subsection, the term 'disallowed portion' means the portion of an applicable dividend which bears the same ratio to such dividend as—

"(A) the consolidated loss offset, bears to

"(B) the separately computed taxable income of the distributing corporation.

"(4) CONSOLIDATED LOSS OFFSET.—For purposes of this subsection, the term 'consolidated loss offset' means, with respect to any distributing corporation, any of the following items of any other member of the same affiliated group as such corporation which are treated as used to offset the separately computed taxable income of such corporation:

"(A) Any net operating loss or any net operating loss carryover under section 172.

"(B) Any loss from the sale or exchange of any capital asset or any capital loss carryover under section 1212.

"(C) The deduction equivalent (determined in the same manner as under section 383) of any excess credit or any excess credit carryover (determined under section 383 without regard to any foreign tax credit allowed under section 27(a)).

"(5) SEPARATELY COMPUTED TAXABLE INCOME.—The term 'separately computed taxable income' means the taxable income of a distributing corporation computed as if it were not a member of an affiliated group.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection, including regulations—

"(A) preventing the avoidance of this subsection through the transfer of assets with built-in losses to the distributing corporation, through delaying dividend payments, or through the use of tiered entities; and

"(B) exempting dividends from the application of this subsection if the taxpayer can establish such dividends were paid from previously taxed income."

(b) REPORTING REQUIREMENTS FOR DIVIDENDS.—Section 6042(a) (relating to returns regarding payments of dividends and corporate earnings and profits) is amended by inserting "or" at the end of subparagraph (B) and by adding after subparagraph (B) the following new subparagraph:

"(C) who makes payments of applicable dividends (within the meaning of section 246(f)(2)) to any corporation a portion of which is not allowable as a deduction under section 243 or 245 by reason of section 246(f),".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to distributions after October 2, 1989, in respect of stock issued after such date.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by this section shall not apply to distributions after October 2, 1989, in respect to stock issued after such date pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such issuance.

(3) SPECIAL RULE WHEN SUBSIDIARY LEAVES GROUP.—If, by reason of a transaction after October 2, 1989, a corporation ceases to be, or becomes, a member of an affiliated group, the amendment made by this section shall apply to any distribution in respect of the stock in such corporation after the date of such cessation or commencement, unless such transaction is of a kind which would not result in the recognition of any deferred intercompany gain under the consolidated return regulations by reason of the acquisition of the entire group.

(4) RETIRED STOCK.—The amendments made by this section shall apply to distributions in respect of stock described in paragraph (1) or (2) if such stock is retired (or acquired) by the corporation or another member of the same affiliated group, unless such retirement is pursuant to an obligation to reissue under a binding written contract in effect on October 1, 1989, and at all times thereafter.

(5) SPECIAL RATE FOR AUCTION RATE REFERRED.—For purposes of this subsection, auction rate preferred stock shall be treated as issued when the contract requiring the auction became binding.

SEC. 6202. DEFERRAL OF INTEREST DEDUCTIONS ON CERTAIN HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGATIONS.

(a) GENERAL RULE.—Subsection (e) of section 163 (relating to interest deductions on original issue discount obligations) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULE FOR ORIGINAL ISSUE DISCOUNT ON CERTAIN HIGH YIELD OBLIGATIONS.—Any portion of any original issue discount on an applicable high yield discount obligation (as defined in subsection (i)) otherwise deductible by a C corporation shall not be allowable as a deduction until paid. For purposes of the preceding sentence, rules similar to the rules of subsection (i)(3)(B) shall apply in determining the time when original issue discount is paid."

(b) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—Section 163 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable high yield discount obligation' means any debt instrument if—

"(A) the maturity date of such instrument is more than 5 years from the date of issue,

"(B) the yield to maturity on such instrument equals or exceeds the sum of—

"(i) the applicable Federal rate in effect under section 1274(d) for the calendar month in which the obligation is issued, plus

"(ii) 5 percentage points, and

"(C) such instrument has significant original issue discount.

For purposes of subparagraph (B)(i), the Secretary may by regulation permit a rate to be used with respect to any debt instrument which is higher than the applicable Federal rate if the taxpayer establishes to the satisfaction of the Secretary that such higher rate is based on the same principles as the applicable Federal rate and is appropriate for the term of the instrument.

"(2) SIGNIFICANT ORIGINAL ISSUE DISCOUNT.—For purposes of paragraph (1)(C), a debt instrument shall be treated as having significant original issue discount if—

"(A) the aggregate amount which would be includible in gross income with respect to such instrument for periods before the close

of any accrual period (as defined in section 1272(a)(5)) ending after the date 5 years after the date of issue, exceeds—

"(B) the sum of—

"(i) the aggregate amount of interest to be paid under the instrument before the close of such accrual period, and

"(ii) the product of the issue price of such instrument (as defined in sections 1273(b) and 1274(a)) and its yield to maturity.

"(3) SPECIAL RULES.—For purposes of determining whether a debt instrument is an applicable high yield discount obligation—

"(A) any payment under the instrument shall be assumed to be made on the last day permitted under the instrument, and

"(B) any payment to be made in the form of another obligation (or stock) of the issuer (or a related person within the meaning of section 453(f)(1)) shall be assumed to be made when such obligation (or stock) is required to be paid in cash or in property other than such obligation (or stock).

"(4) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means any instrument which is a debt instrument as defined in section 1275(a).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including—

"(A) regulations providing for modifications to the provisions of this subsection in the case of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, conversion rights, or other circumstances where such modifications are appropriate to carry out the purposes of this subsection, and

"(B) regulations to prevent avoidance of the purposes of this subsection through the use of issuers other than C corporations, agreements to borrow amounts due under the debt instrument, or other arrangements."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to instruments issued after July 10, 1989.

(2) EXCEPTIONS.—

(A) The amendments made by this section shall not apply to any instrument if—

(i) such instrument is issued in connection with an acquisition—

(I) which is made on or before July 10, 1989,

(II) for which there was a written binding contract in effect on July 10, 1989, and at all times thereafter before such acquisition, or

(III) for which a tender offer was filed with the Securities and Exchange Commission on or before July 10, 1989,

(ii) the term of such instrument is not greater than—

(I) the term specified in the written documents described in clause (iii), or

(II) if no term is determined under subclause (I), 10 years, and

(iii) the use of such instrument in connection with such acquisition (and the maximum amount of proceeds from such instrument) was determined on or before July 10, 1989, and such determination is evidenced by written documents—

(I) which were transmitted on or before July 10, 1989 between the issuer and any governmental regulatory bodies or prospective parties to the issuance or acquisition, and

(II) which are customarily used for the type of acquisition or financing involved.

(B) The amendments made by this section shall not apply to any instrument issued pursuant to the terms of a debt instrument issued on or before July 10, 1989, or described in subparagraph (A) or (D).

(C) The amendments made by this section shall not apply to any instrument issued to refinance an original issue discount debt instrument to which the amendments made by this section do not apply if—

(i) the maturity date of the refinancing instrument is not later than the maturity date of the refinanced instrument,

(ii) the issue price of the refinancing instrument does not exceed the adjusted issue price of the refinanced instrument,

(iii) the stated redemption price at maturity of the refinancing instrument is not greater than the stated redemption price at maturity of the refinanced instrument, and

(iv) the interest payments required under the refinancing instrument before maturity are not less than (and are paid not later than) the interest payments required under the refinanced instrument.

(D) The amendments made by this section shall not apply to instruments issued after July 10, 1989, pursuant to a reorganization plan in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1986) if the amount of proceeds of such instruments, and the maturities of such instruments, do not exceed the amount or maturities specified in the last reorganization plan filed in such case on or before July 10, 1989.

SEC. 6203. SECTION 351 MADE INAPPLICABLE TO CERTAIN TRANSFERS OF SECURITIES.

(a) GENERAL RULE.—Section 351(a) (relating to nonrecognition in cases of transfers to corporations controlled by transferor) is amended by striking "or securities".

(b) EXCEPTIONS FOR CERTAIN EXCHANGES.—Section 351 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) CERTAIN TRANSFERORS PERMITTED TO RECEIVE SECURITIES WITHOUT RECOGNITION OF GAIN OR LOSS.—

"(1) IN GENERAL.—In the case of the following exchanges, subsections (a), (b), (d), and (e) shall be applied by substituting 'stock or securities' for 'stock':

"(A) Any exchange in pursuance of a plan of reorganization.

"(B) Any exchange where the stock or securities received in the exchange are distributed in a transaction to which section 355 (or so much of section 356 as relates to section 355) applies."

(c) CONFORMING AMENDMENTS.—Subsections (b), (d), and (e)(2) of section 351 are each amended by striking "or securities".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to transfers after October 2, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such transfer.

(3) CORPORATE TRANSFERS.—In the case of property transferred (directly or indirectly through a partnership or otherwise) by a C corporation, paragraphs (1) and (2) shall be applied by substituting "July 11, 1989" for "October 2, 1989". The preceding sentence shall not apply where the corporation meets the requirements of section 1504(a)(2) of the Internal Revenue Code of 1986 with respect to the transferee corporation (and where the transfer is not part of a plan pursuant to which the transferor subsequently fails to meet such requirements.)

SEC. 6204. PROVISIONS RELATED TO REGULATED INVESTMENT COMPANIES.

(a) REQUIREMENT TO DISTRIBUTE 98 PERCENT OF ORDINARY INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 4982(b)(1) (defining required distribution) is amended by striking "97 percent" and inserting "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to calendar years ending after July 10, 1989.

(b) TREATMENT OF CERTAIN MUTUAL FUND LOAD CHARGES.—

(1) IN GENERAL.—Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOAD CHARGES.—

"(1) IN GENERAL.—If—

"(A) the taxpayer incurs a load charge in acquiring stock in a regulated investment company and, by reason of incurring such charge or making such acquisition, the taxpayer acquires a reinvestment right,

"(B) such stock is disposed of within 6 months of the date on which such stock was acquired, and

"(C) the taxpayer subsequently acquires stock in such regulated investment company or in another regulated investment company and the otherwise applicable load charge is reduced by reason of the reinvestment right,

the load charge referred to in subparagraph (A) (to the extent it does not exceed the reduction referred to in subparagraph (C)) shall not be taken into account for purposes of determining the amount of gain or loss on the disposition referred to in subparagraph (B). To the extent such charge is not taken into account in determining the amount of such gain or loss, such charge shall be treated as incurred in connection with the acquisition referred to in subparagraph (C) (including for purposes of reapplying this paragraph).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LOAD CHARGE.—The term 'load charge' means any sales or similar charge incurred by a person in acquiring stock of a regulated investment company. Such term does not include any charge incurred by reason of the reinvestment of a dividend.

"(B) REINVESTMENT RIGHT.—The term 'reinvestment right' means any right to acquire stock of 1 or more other regulated investment companies without the payment of a load charge or with the payment of a reduced charge.

"(C) NONRECOGNITION TRANSACTIONS.—If the taxpayer acquires stock in a regulated investment company from another person in a transaction in which gain or loss is not recognized, the taxpayer shall succeed to the treatment of such other person under this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to charges incurred after October 3, 1989, in taxable years ending after such date.

(c) REGULATED INVESTMENT COMPANIES REQUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND DATE.—

(1) IN GENERAL.—Subsection (b) of section 852 (relating to treatment of companies and shareholders) is amended by adding at the end thereof the following new paragraph:

"(9) DIVIDENDS TREATED AS RECEIVED BY COMPANY ON EX-DIVIDEND DATE.—For purposes of this title, any dividend received by a regulated investment company with respect to any share of stock shall be treated as received by such company on the later of—

"(A) the date such share became ex-dividend with respect to such dividend, or

"(B) the date such company acquired such share."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dividends in cases where the stock becomes ex-dividend after the date of the enactment of this Act.

SEC. 6205. LIMITATION ON THRESHOLD REQUIREMENT UNDER SECTION 382 BUILT-IN GAIN AND LOSS PROVISIONS.

(a) GENERAL RULE.—Clause (i) of section 382(h)(3)(B) (relating to threshold requirement) is amended to read as follows:

"(i) IN GENERAL.—If the amount of the net unrealized built-in gain or net unrealized built-in loss (determined without regard to this subparagraph) of any old loss corporation is not greater than the lesser of—

"(I) 15 percent of the amount determined for purposes of subparagraph (A)(i)(I), or

"(II) $25,000,000,

the net unrealized built-in gain or net unrealized built-in loss shall be zero."

(b) CONFORMING AMENDMENT TO ADJUSTED CURRENT EARNINGS PREFERENCE.—Subparagraph (H) of section 56(g)(4) (relating to treatment of certain ownership changes) is amended by striking clause (ii) and all that follows and inserting the following:

"(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to ownership changes and acquisitions after October 2, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any ownership change or acquisition pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such change or acquisition.

(3) BANKRUPTCY PROCEEDINGS.—In the case of a reorganization described in section 368(a)(1)(G) of the Internal Revenue Code of 1986, or an exchange of debt for stock in a title 11 or similar case (as defined in section 368(a)(3) of such Code), the amendments made by this section shall not apply to any ownership change resulting from such a reorganization or proceeding if a petition in such case was filed with the court before October 3, 1989.

SEC. 6206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK TREATED AS EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by striking subsection (f) and inserting the following:

"(f) TREATMENT OF DIVIDENDS ON CERTAIN PREFERRED STOCK.—

"(1) IN GENERAL.—Any dividend with respect to disqualified preferred stock shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held the stock.

"(2) DISQUALIFIED PREFERRED STOCK.—For purposes of this subsection, the term 'disqualified preferred stock' means any stock which is preferred as to dividends if—

"(A) when issued, such stock has a dividend rate which declines (or can reasonably be expected to decline) in the future,

"(B) the issue price of such stock exceeds its liquidation rights or its stated redemption price, or

"(C) such stock is otherwise structured—

"(i) to avoid the other provisions of this section, and

"(ii) to enable corporate shareholders to reduce tax through a combination of dividend received deductions and loss on the disposition of the stock.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass-thru entities, and

"(2) providing that the rules of subsection (f) shall apply in the case of stock which is not preferred as to dividends in cases where stock is structured to avoid the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any stock issued pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the stock is issued.

SEC. 6207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS ACCOUNT RECAPTURE BY REDUCING BASIS OF INDEBTEDNESS.

(a) GENERAL RULE.—Subsection (e) of section 1503 (relating to special rule for determining adjustment to basis) is amended by adding at the end thereof the following new paragraph:

"(4) ELIMINATION OF ELECTION TO REDUCE BASIS OF INDEBTEDNESS.—Nothing in the regulations prescribed under section 1502 shall permit any reduction in the amount otherwise included in gross income by reason of an excess loss account if such reduction is on account of a reduction in the basis of indebtedness."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such disposition.

SEC. 6208. OTHER PROVISIONS RELATING TO TREATMENT OF STOCK AND DEBT; ETC.

(a) CLARIFICATION OF REGULATORY AUTHORITY UNDER SECTION 385.—

(1) IN GENERAL.—Subsection (a) of section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by inserting "(or as in part stock and in part indebtedness)" before the period at the end thereof.

(2) REGULATIONS NOT TO BE APPLIED RETROACTIVELY.—Any regulations issued pursuant to the authority granted by the amendment made by paragraph (1) shall only apply with respect to instruments issued after the date on which the Secretary of the Treasury or his delegate provides public guidance as to the characterization of such instruments whether by regulation, ruling, or otherwise.

(b) REPORTING OF CERTAIN ACQUISITIONS OR RECAPITALIZATIONS.—

(1) IN GENERAL.—Section 6043 is amended by striking subsection (c) and inserting the following new subsections:

"(c) CHANGES IN CONTROL AND RECAPITALIZATIONS.—If—

"(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

"(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

"(d) CROSS REFERENCES.—

"For provisions relating to penalties for failure to file—

"(1) a return under subsection (b), see section 6652(c), or

"(2) a return under subsection (c), see section 6652(l)."

(2) PENALTY.—Section 6652 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to $500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed $100,000."

(3) CONFORMING AMENDMENTS.—

(A) The subsection heading for subsection (a) of section 6043 is amended by striking "CORPORATIONS" and inserting "CORPORATE LIQUIDATING, ETC., TRANSACTIONS".

(B) The section heading for section 6043 is amended to read as follows:

"SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS."

(C) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6043 and inserting the following:

"Sec. 6043. Liquidating; etc., transactions."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions after March 31, 1990.

SEC. 6209. ESTIMATED TAX PAYMENTS REQUIRED FOR S CORPORATIONS.

(a) IN GENERAL.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED ON S CORPORATIONS.—In the case of an S corporation, for purposes of this section—

"(A) The following taxes shall be treated as imposed by section 11:

"(i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).

"(ii) The tax imposed by section 1375(a).

"(iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

"(B) Paragraph (2) of subsection (d) shall not apply.

"(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

"'(ii) the sum of—

"'(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

"'(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.'

"(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

"(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 6210. LIMITATIONS ON REFUNDS DUE TO NET OPERATING LOSS CARRYBACKS OR EXCESS INTEREST ALLOCABLE TO CORPORATE EQUITY REDUCTION TRANSACTIONS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(M) EXCESS INTEREST LOSS.—

"(i) IN GENERAL.—If—

"(I) there is a corporate equity reduction transaction, and

"(II) an applicable corporation has a corporate equity reduction interest loss for any loss limitation year ending after August 2, 1989,

then the corporate equity reduction interest loss shall be a net operating loss carryback and carryover to the taxable years described in subparagraphs (A) and (B), except that such loss shall not be carried back to a taxable year preceding the taxable year in which the corporate equity reduction transaction occurs.

"(ii) LOSS LIMITATION YEAR.—For purposes of clause (i) and subsection (m), the term 'loss limitation year' means, with respect to any corporate equity reduction transaction, the taxable year in which such transaction occurs and each of the 2 succeeding taxable years.

"(iii) APPLICABLE CORPORATION.—For purposes of clause (i), the term 'applicable corporation' means—

"(I) a C corporation which acquires stock, or the stock of which is acquired, in a major stock acquisition,

"(II) a C corporation which makes distributions with respect to, or redeems, its stock in connection with an excess distribution, or

"(III) any C corporation which is a successor corporation of a corporation described in subclause (I) or (II).

"(iv) OTHER DEFINITIONS.—For definitions of terms used in this subparagraph, see subsection (m)."

(b) CORPORATE EQUITY REDUCTION INTEREST LOANS AND CORPORATE EQUITY REDUCTION TRANSACTION DEFINED.—Section 172 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CORPORATE EQUITY REDUCTION INTEREST LOSSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'corporate equity reduction interest loss' means, with respect to any loss limitation year, the excess (if any) of—

"(A) the net operating loss for such taxable year, over

"(B) the net operating loss for such taxable year determined without regard to any allocable interest deductions otherwise taken into account in computing such loss.

"(2) ALLOCABLE INTEREST DEDUCTIONS.—

"(A) IN GENERAL.—The term 'allocable interest deductions' means deductions allowed under this chapter for interest on the portion of any indebtedness allocable to a corporate equity reduction transaction.

"(B) METHOD OF ALLOCATION.—Except as provided in regulations and subparagraph (E), indebtedness shall be allocated to a corporate equity reduction transaction in the manner prescribed under clause (ii) of section 263A(f)(2)(A) (without regard to clause (i) thereof).

"(C) ALLOCABLE DEDUCTIONS NOT TO EXCEED INTEREST INCREASES.—Allocable interest deductions for any loss limitation year shall not exceed the excess (if any) of—

"(i) the amount allowable as a deduction for interest paid or accrued by the taxpayer during the loss limitation year, over

"(ii) the average of such amounts for the 3 taxable years preceding the taxable year in which the corporate equity reduction transaction occurred.

"(D) DE MINIMIS RULE.—A taxpayer shall be treated as having no allocable interest deductions for any taxable year if the amount of such deductions (without regard to this subparagraph) is less than $1,000,000.

"(E) SPECIAL RULE FOR CERTAIN UNFORESEEABLE EVENTS.—If an unforeseeable extraordinary adverse event occurs during a loss limitation year but after the corporate equity reduction transaction—

"(i) indebtedness shall be allocated in the manner described in subparagraph (B) to unreimbursed costs paid or incurred in connection with such event before being allocated to the corporate equity reduction transaction, and

"(ii) the amount determined under subparagraph (C)(i) shall be reduced by the amount of interest on indebtedness described in clause (i).

"(F) TRANSITION RULE.—If any of the 3 taxable years described in subparagraph (C)(ii) end on or before August 2, 1989, the taxpayer may substitute for the amount determined under such subparagraph an amount equal to the interest paid or accrued (determined on an annualized basis) during the taxpayer's taxable year which includes August 3, 1989, on indebtedness of the taxpayer outstanding on August 2, 1989.

"(3) CORPORATE EQUITY REDUCTION TRANSACTION.—

"(A) IN GENERAL.—The term 'corporate equity reduction transaction' means—

"(i) a major stock acquisition, or

"(ii) an excess distribution.

"(B) MAJOR STOCK ACQUISITION.—

"(i) IN GENERAL.—The term 'major stock acquisition' means the acquisition by a corporation pursuant to a plan of such corporation (or any group of persons acting in concert with such corporation) of stock in another corporation representing 50 percent or more (by vote or value) of the stock in such other corporation,

"(ii) EXCEPTIONS.—The term 'major stock acquisition' shall not include—

"(I) a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies, or

"(II) except as provided in regulations, an acquisition in which a corporation acquires stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)) other than the common parent of such group.

"(C) EXCESS DISTRIBUTION.—The term 'excess distribution' means the excess (if any) of—

"(i) the aggregate distributions (including redemptions) made during a taxable year by a corporation with respect to its stock, over

"(ii) the greater of—

"(I) 150 percent of the average of such distributions during the 3 taxable years immediately preceding such taxable year, or

"(II) 10 percent of the fair market value of the stock of such corporation as of the beginning of such taxable year.

"(D) RULES FOR APPLYING SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) PLANS TO ACQUIRE STOCK.—All plans referred to in subparagraph (B) by any corporation (or group of persons acting in concert with such corporation) with respect to another corporation shall be treated as 1 plan.

"(ii) ACQUISITIONS DURING 24-MONTH PERIOD.—All acquisitions during any 24-month period shall be treated as pursuant to 1 plan.

"(E) RULES FOR APPLYING SUBPARAGRAPH (C).—For purposes of subparagraph (C)—

"(i) CERTAIN PREFERRED STOCK DISREGARDED.—Stock described in section 1504(a)(4), and distributions (including redemptions) with respect to such stock, shall be disregarded.

"(ii) ISSUANCE OF STOCK.—The amounts determined under clauses (i) and (ii)(I) of subparagraph (C) shall be reduced by the aggregate amount of stock issued by the corporation during the applicable period in exchange for money or property other than stock in the corporation.

"(4) OTHER RULES.—

"(A) ORDERING RULE.—For purposes of paragraph (1), in determining the allocable interest deductions taken into account in computing the net operating loss for any taxable year, taxable income for such taxable year shall be treated as having been computed by taking allocable interest deductions into account after all other deductions.

"(B) COORDINATION WITH SUBSECTION (B)(2).—In applying paragraph (2) of subsection (b), the corporate equity reduction interest loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(C) MEMBERS OF AFFILIATED GROUPS.—Except as provided by regulations, all members of an affiliated group filing a consolidated return under section 1501 shall be

treated as 1 taxpayer for purposes of this subsection and subsection (b)(1)(M).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) for applying this subsection to successor corporations and in cases where a taxpayer becomes, or ceases to be, a member of an affiliated group filing a consolidated return under section 1501,

"(B) to prevent the avoidance of this subsection through related parties, pass-through entities, and intermediaries, and

"(C) for applying this subsection where more than 1 corporation is involved in a corporate equity reduction transaction.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to corporate equity reduction transactions occurring after August 2, 1989, in taxable years ending after August 2, 1989.

(2) EXCEPTIONS.—In determining whether a corporate equity reduction transaction has occurred after August 2, 1989, there shall not be taken into account—

(A) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989,

(B) acquisitions or redemptions of stock after August 2, 1989, pursuant to a binding written contract (or tender offer filed with the Securities and Exchange Commission) in effect on August 2, 1989, and at all times thereafter before such acquisition or redemption, or

(C) any distribution with respect to stock after August 2, 1989, which was declared on or before August 2, 1989.

Any distribution to which the preceding sentence applies shall be taken into account under section 172(m)(3)(C)(ii)(I) of the Internal Revenue Code of 1986 (relating to base period for distributions).

Subtitle B—Employee Benefit Provisions

SEC. 6301. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) EXCLUSION AVAILABLE ONLY WHERE EMPLOYEES RECEIVE SIGNIFICANT OWNERSHIP INTEREST.—Subsection (b) of section 133 (defining securities acquisition loans) is amended by adding at the end thereof the following new paragraph:

"(6) PLAN MUST HOLD 30 PERCENT OF STOCK AFTER ACQUISITION OR TRANSFER.—

"(A) IN GENERAL.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless, immediately after the acquisition or transfer referred to in subparagraph (A) or (B) of paragraph (1), respectively, the employee stock ownership plan owns (after application of section 318(a)(4)) at least 30 percent of—

"(i) each class of outstanding stock of the corporation issuing the employer securities, or

"(ii) the total value of all outstanding stock of the corporation.

"(B) STOCK.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(ii) TREATMENT OF CERTAIN RIGHTS.—The Secretary may provide that warrants, options, contracts to acquire stock, convertible debt interests and other similar interests be treated as stock for 1 or more purposes under subparagraph (A).".

(b) TERM OF LOAN MAY NOT EXCEED 15 YEARS.—Paragraph (1) of section 133(b) is amended by adding at the end thereof the following new sentence: "The term 'securities acquisition loan' shall not include a loan with a term greater than 15 years."

(c) VOTING RIGHTS.—Subsection (b) of section 133, as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(7) VOTING RIGHTS OF EMPLOYER SECURITIES.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless—

"(A) the employee stock ownership plan meets the requirements of section 409(e)(2) with respect to all employer securities acquired by, or transferred to, the plan in connection with such loan (without regard to whether or not the employer has a registration-type class of securities), and

"(B) no stock described in section 409(l)(3) is acquired by, or transferred to, the plan in connection with such loan unless—

"(i) such stock has voting rights equivalent to the stock to which it may be converted, and

"(ii) the requirements of subparagraph (A) are met with respect to such voting rights.".

(d) TAX ON DISPOSITION OF SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS.—

(1) IN GENERAL.—Chapter 43 is amended by inserting after section 4978A the following new section:

"SEC. 4978B. TAX ON DISPOSITION OF EMPLOYER SECURITIES TO WHICH SECTION 133 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of an employee stock ownership plan which has acquired section 133 securities, there is hereby imposed a tax on each taxable event in an amount equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 10 percent of the amount realized on the disposition to the extent allocable to section 133 securities under section 4978A(d).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means any of the following dispositions:

"(1) DISPOSITIONS WITHIN 3 YEARS.—Any disposition of any employer securities by an employee stock ownership plan within 3 years after such plan acquired section 133 securities if—

"(A) the total number of employer securities held by such plan after such disposition is less than the total number of employer securities held after such acquisition, or

"(B) except to the extent provided in regulations, the value of employer securities held by such plan after the disposition is less than 30 percent of the total value of all employer securities as of the time of the disposition.

"(2) STOCK DISPOSED OF BEFORE ALLOCATION.—Any disposition of section 133 securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EXCEPTIONS.—Rules similar to the rules of section 4978A(e) shall apply.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by the employer.

"(3) SECTION 133 SECURITIES.—The term 'section 133 securities' means employer securities acquired by an employee stock ownership plan in a transaction to which section 133 applied, except that such term shall not include—

"(A) qualified securities (as defined in section 4978(e)(2)), or

"(B) qualified employer securities (as defined in section 4978A(f)(2)).

"(4) DISPOSITION.—The term 'disposition' includes any distribution.

"(5) ORDERING RULES.—For ordering rules for dispositions of employer securities, see section 4978A(d)."

(2) CONFORMING AMENDMENTS.—

(A) Section 4978A(d) is amended by redesignating paragraphs (3) and (4) as paragraphs (5) and (6) and by inserting after paragraph (2) the following new paragraphs:

"(3) Third, from section 133 securities (as defined in section 4978B(d)(3)) acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Fourth, from section 133 securities (as so defined) acquired before such 3-year period unless such securities (or proceeds from the disposition) have been allocated to accounts of participants or beneficiaries."

(B) Section 4978A(d)(5), as redesignated by clause (i), is amended by striking "Third" and inserting "Fifth".

(C) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978A the following new item:

"Sec. 4978B. Tax on disposition of employer securities to which section 133 applied.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to loans made after June 6, 1989.

(2) BINDING COMMITMENT EXCEPTION.—The amendments made by this section shall not apply to any loan—

(A) which is made pursuant to a binding written commitment in effect on June 6, 1989, and at all times thereafter before such loan is made, or

(B) to the extent that the proceeds of such loan are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on June 6, 1989, and at all times thereafter before such securities are acquired.

(3) REFINANCINGS.—The amendments made by this section shall not apply to loans made after June 6, 1989, to refinance securities acquisition loans (determined without regard to section 133(b)(2) of the Internal Revenue Code of 1986) made on or before such date or to refinance loans described in this paragraph or paragraph (2), (4), or (5) if—

(A) such refinancing loans meet the requirements of such section 133 of such Code (as in effect before such amendments) applicable to such loans,

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the later of—

(i) the last day of the term of the original securities acquisition loan, or

(ii) the last day of the 7-year period beginning on the date the original securities acquisition loan was made.

For purposes of this paragraph, the term "securities acquisition loan" shall include a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code.

(4) COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by this section shall not apply to any loan to the extent such loan is used to acquire employer securities for an employee stock ownership plan pursuant to a collective bargaining agreement setting forth the material terms of such employee stock ownership plan which was agreed to on or before June 6, 1989, by one or more employers and employee representatives (and ratified on or before such date or within a reasonable period thereafter).

(5) FILINGS WITH UNITED STATES.—The amendments made by this section shall not apply to any loan the aggregate principal amount of which was specified in a filing with an agency of the United States on or before June 6, 1989, if—

(A) such filing specifies such loan is to be a securities acquisition loan for purposes of section 133 of the Internal Revenue Code of 1986 and such filing is for the registration required to permit the offering of such loan, or

(B) such filing is for the approval required in order for the employee stock ownership plan to acquire more than a certain percentage of the stock of the employer.

SEC. 6302. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h) ACCOUNTS.

(a) IN GENERAL.—Section 401(h) is amended by adding at the end thereof the following new sentence: "In no event shall the requirements of paragraph (1) be treated as met if the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection under the plan, exceed 25 percent of the total actual contributions to the plan (other than contributions to fund past service credits) after the date on which the account is established."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions after October 3, 1989.

Subtitle C—Foreign Provisions

SEC. 6401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—For purposes of this title, the taxable year of any specified foreign corporation shall be the required year determined under subsection (c).

"(b) SPECIFIED FOREIGN CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified foreign corporation' means any foreign corporation—

"(A) which is—

"(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

"(ii) a foreign personal holding company (as defined in section 552), and

"(B) with respect to which the ownership requirements of paragraph (2) are met.

"(2) OWNERSHIP REQUIREMENTS.—

"(A) IN GENERAL.—The ownership requirements of this paragraph are met with respect to any foreign corporation if a United States shareholder owns, on each testing day, more than 50 percent of—

"(i) the total voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of all classes of stock of such corporation.

"(B) OWNERSHIP.—For purposes of subparagraph (A), the rules of subsections (a) and (b) of section 958 and sections 551(f) and 554, whichever are applicable, shall apply in determining ownership.

"(3) UNITED STATES SHAREHOLDER.—

"(A) IN GENERAL.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).

"(B) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term 'United States shareholder' means any person who is treated as a United States shareholder under section 551.

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a specified foreign corporation described in subsection (b)(1)(A)(i), the required year is—

"(i) the majority U.S. shareholder year, or

"(ii) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(B) 1-MONTH DEFERRAL ALLOWED.—Except as provided in paragraph (2), a specified foreign corporation may elect, in lieu of the taxable year under subparagraph (A)(i), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(C) MAJORITY U.S. SHAREHOLDER YEAR.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(I) each United States shareholder described in subsection (b)(2)(A), and

"(II) each United States shareholder not described in subclause (I) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such subclause.

"(ii) TESTING DAY.—The testing days shall be—

"(I) the first day of the corporation's taxable year (determined without regard to this section), or

"(II) the days during such representative period as the Secretary may prescribe.

"(2) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a foreign personal holding company described in subsection (b)(3)(B), the required year shall be determined under paragraph (1), except that subparagraph (B) of paragraph (1) shall not apply."

(b) TREATMENT OF DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR.—

(1) IN GENERAL.—Section 563 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) FOREIGN PERSONAL HOLDING COMPANY TAX.—

"(1) IN GENERAL.—In the determination of the dividends paid deduction for purposes of part III, a dividend paid after the close of any taxable year and on or before the 15th day of the 3rd month following the close of such taxable year shall, to the extent the company designates such dividend as being taken into account under this subsection, be considered as paid during such taxable year. The amount allowed as a deduction by reason of the application of this subsection with respect to any taxable year shall not exceed the undistributed foreign personal holding company income of the corporation for the taxable year computed without regard to this subsection.

"(2) SPECIAL RULES.—In the case of any distribution referred to in paragraph (1)—

"(A) paragraph (1) shall apply only if such distribution is to the person who was the shareholder of record (as of the last day of the taxable year of the foreign personal holding company) with respect to the stock for which such distribution is made,

"(B) the determination of the person required to include such distribution in gross income shall be made under the principles of section 551(f), and

"(C) any person required to include such distribution in gross or distributable net income shall include such distribution in income for such person's taxable year in which the taxable year of the foreign personal holding company ends."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 563 (as redesignated by paragraph (1)) is amended by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (c)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 898. Taxable year of certain foreign corporations."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after July 10, 1989.

(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.

SEC. 6402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.—If 2 or more domestic corporations

would be members of the same affiliated group if—

"(1) section 1504(b) were applied without regard to the exceptions contained therein, and

"(2) the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a),

the Secretary may by regulations provide for resourcing the income of any of such corporations or for modifications to the consolidated return regulations to the extent that such resourcing or modifications are necessary to prevent the avoidance of the provisions of this subpart."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after July 10, 1989.

SEC. 6403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) 25-PERCENT FOREIGN-OWNED CORPORATIONS REQUIRED TO REPORT.—

(1) Paragraph (2) of section 6038A(a) is amended to read as follows:

"(2) is 25-percent foreign-owned,".

(2) Subsection (c) of section 6038A is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) 25-PERCENT FOREIGN-OWNED.—A corporation is 25-percent foreign-owned if at least 25 percent of—

"(A) the total voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 foreign person (hereinafter in this section referred to as a '25-percent foreign shareholder').

"(2) RELATED PARTY.—The term 'related party' means—

"(A) any 25-percent foreign shareholder of the reporting corporation,

"(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, and

"(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

"(4) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30), except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(5) RECORDS.—The term 'records' includes any books, papers, or other data.

"(6) SECTION 318 TO APPLY.—Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

"(A) '10 percent' shall be substituted for '50 percent' in section 318(a)(2)(C), and

"(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person."

(b) U.S. RECORDKEEPING REQUIREMENTS.—Subsection (a) of section 6038A is amended by inserting before the period at the end thereof the following: "and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)".

(c) INCREASE IN PENALTY.—Subsection (d) of section 6038A is amended to read as follows:

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—

"(1) IN GENERAL.—If a reporting corporation—

"(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

"(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of $10,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records."

(d) ENFORCEMENT OF INFORMATION REQUESTS.—Section 6038A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request to examine records or produce testimony related to any such transaction or with respect to any summons for such records or testimony.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the correct treatment of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons,

the Secretary may apply the rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction to which the records relate.

"(3) APPLICABLE RULES IN CASES OF NONCOMPLIANCE.—If the rules of this paragraph apply to any transaction—

"(A) the amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

"(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party),

shall be the amount determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be treated as a final order which may be appealed.

"(C) SUSPENSION OF STATUTE OF LIMITATIONS.—If the reporting corporation brings an action under subparagraph (A) to quash the summons referred to in paragraph (2)(A), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any transaction to which the summons relates shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after July 10, 1989.

Subtitle D—Excise Tax Provisions

SEC. 6501. 9-MONTH SUSPENSION OF AUTOMATIC REDUCTION IN AVIATION-RELATED TAXES.

(a) IN GENERAL.—Subsection (a) of section 4283 (relating to reduction in aviation-related taxes in certain cases) is amended by striking "during 1990" and inserting "after September 30, 1990".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4283(b)(1)(A) is amended by striking "1988 and 1989" and inserting "1989 and 1990".

(2) Paragraph (3) of section 4283(b) is amended—

(A) by striking "December 1, 1989" and inserting "September 1, 1990", and

(B) by striking "during 1990" and inserting "after September 30, 1990".

(3) Subsection (q) of section 6427 is amended by striking "during 1990" each place it appears and inserting "after September 30, 1990".

SEC. 6502. INCREASE IN INTERNATIONAL AIR PASSENGER DEPARTURE TAX.

(a) IN GENERAL.—Section 4261(c) (relating to tax on use of international travel facilities) is amended by striking "$3" and inserting "$6".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after December 31, 1989.

SEC. 6503. SHIP PASSENGERS INTERNATIONAL DEPARTURE TAX.

(a) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting after subchapter A the following new subchapter:

"Subchapter B—Transportation by Water

"Sec. 4471. Imposition of tax.

"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax of $3 per passenger on a covered voyage.

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the person providing the covered voyage.

"(c) TIME OF IMPOSITION.—The tax imposed by this section shall be imposed only once for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States.

"SEC. 4472. DEFINITIONS.

"For purposes of this subchapter—

"(1) COVERED VOYAGE.—

"(A) IN GENERAL.—The term 'covered voyage' means a voyage of—

"(i) a commercial passenger vessel which extends over 1 or more nights, or

"(ii) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States, during which passengers embark or disembark the vessel in the United States. Such term shall not include any voyage on any vessel owned or operated by the United States, a State, or any agency or subdivision thereof.

"(B) EXCEPTION FOR CERTAIN VOYAGES ON PASSENGER VESSELS.—The term 'covered voyage' shall not include a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' means any vessel having berth or stateroom accommodations for more than 16 passengers."

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 36 is amended by inserting after the item relating to subchapter A the following new item:

"SUBCHAPTER B. Transportation by water."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to voyages beginning after December 31, 1989.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter B of chapter 36 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 6504. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE EFFECT ON JANUARY 1, 1990.

(a) TAX TO TAKE EFFECT ON JANUARY 1, 1990.—

(1) IN GENERAL.—Subsection (f) of section 4611 (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (1) and (2) and by inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1992."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 4611(f) is redesignated as paragraph (2) and is amended by striking "the commencement date" in subparagraph (A) and inserting "January 1, 1990,".

(b) 3 CENT RATE OF TAX.—Subparagraph (B) of section 4611(c)(2) is amended by striking "1.3 cents" and inserting "3 cents".

(c) OIL SPILL LIABILITY TRUST FUND TO BE OPERATING FUND.—

(1) IN GENERAL.—For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986, the commencement date is January 1, 1990.

(2) CONFORMING AMENDMENTS.—

(A) Section 9509 (relating to Oil Spill Liability Trust Fund) is amended by adding at the end thereof the following new subsection:

"(f) REFERENCES TO COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT.—For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives or the Oil Pollution Liability and Compensation Act of 1989, S. 686 of the 101st Congress as passed by the Senate."

(B) Paragraph (3) of section 9509(b) is amended by striking "(on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)" and inserting "(on January 1, 1990)".

(C) Paragraph (1)(A) of section 9509(c) is amended by striking the last sentence.

SEC. 6505. EXCISE TAX ON SALE OF CHEMICALS WHICH DEPLETE THE OZONE LAYER AND OF PRODUCTS CONTAINING SUCH CHEMICALS.

(a) IN GENERAL.—Chapter 38 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Ozone-Depleting Chemicals, Etc.

"Sec. 4681. Imposition of tax.

"Sec. 4682. Definitions and special rules.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and

"(2) any imported taxable product sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) OZONE-DEPLETING CHEMICALS.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

"(i) the base tax amount, multiplied by

"(ii) the ozone-depletion factor for such chemical.

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1990	$1.07
1991	1.12
1992	1.67
1993	3.15
1994 or thereafter	3.15.

"(2) IMPORTED TAXABLE PRODUCT.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

"(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

"SEC. 4682. DEFINITIONS AND SPECIAL RULES.

"(a) OZONE-DEPLETING CHEMICAL.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'ozone-depleting chemical' means any substance—

"(A) which, at the time of the sale or use by the manufacturer, producer, or importer, is listed as an ozone-depleting chemical in the table contained in paragraph (2), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) OZONE-DEPLETING CHEMICALS.—

"Common name:	Chemical nomenclature:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetrafluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	dibromotetrafluoroethane.

"(b) OZONE-DEPLETION FACTOR.—For purposes of this subchapter, the term 'ozone-depletion factor' means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

"Ozone-depleting chemical:	Ozone-depletion factor:
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0.

"(c) IMPORTED TAXABLE PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'imported taxable product' means any product (other than an ozone-depleting chemical) entered into the United States for consumption, use, or warehousing if any ozone-depleting chemical was used as material in the manufacture or production of such product.

"(2) DE MINIMIS EXCEPTION.—The term 'imported taxable product' shall not include any product specified in regulations prescribed by the Secretary as using a de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product in which any ozone-depleting chemical is used for purposes of refrigeration or air conditioning, creating an

aerosol or foam, or manufacturing electronic components.

"(d) EXCEPTIONS.—

"(1) RECYCLING.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process).

"(2) USE IN FURTHER MANUFACTURE.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is used (and entirely consumed) by the manufacturer, producer, or importer thereof in the manufacture or production of any other chemical.

"(B) CREDIT OR REFUND.—Under regulations prescribed by the Secretary, if—

"(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

"(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(3) EXPORTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

"(B) LIMIT ON BENEFIT.—

"(i) IN GENERAL.—The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured or produced by any person during a calendar year shall not exceed the sum of—

"(I) the amount equal to the 1986 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclause (II) applies), and

"(II) the aggregate tax imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989).

"(ii) 1986 EXPORT PERCENTAGE.—A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986. The percentage determined under the preceding sentence shall be based on data published by the Environmental Protection Agency.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the article for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(f) SPECIAL RULES.—

"(1) FRACTIONAL PARTS OF A POUND.—In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(g) PHASE-IN OF TAX ON CERTAIN SUBSTANCES.—

"(1) TREATMENT FOR 1990.—

"(A) HALONS.—The term 'ozone-depleting chemical' shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—No tax shall be imposed by section 4681—

"(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

"(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser in the manufacture of rigid foam insulation, or

"(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

"(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) TREATMENT FOR 1991, 1992, AND 1993.—

"(A) HALONS.—The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of:	The applicable percentage is: For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
Halon-1211	7	5	3
Halon-1301	2	1	1
Halon-2402	4	2	1.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of sales or use during:	The applicable percentage is:
1991	23
1992	16
1993	8.

"(3) OVERPAYMENTS WITH RESPECT TO CHEMICALS USED IN RIGID FOAM INSULATION.—If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

"(A) the tax paid under this subchapter on such substance, over

"(B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

"(h) IMPOSITION OF FLOOR STOCKS TAXES.—

"(1) JANUARY 1, 1990, TAX.—On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

"(2) OTHER TAX-INCREASE DATES.—

"(A) IN GENERAL.—If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

"(i) the tax which would be imposed under section 4681 on such substance if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over

"(ii) the prior tax (if any) imposed by this subchapter on such substance.

"(C) TAX-INCREASE DATE.—For purposes of this paragraph, the term 'tax-increase date' means January 1 of 1991, 1992, 1993, and 1994.

"(3) DUE DATE.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before April 1 of such year.

"(4) APPLICATION OF OTHER LAWS.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Ozone-depleting chemicals, etc."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1990.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 6506. ACCELERATION OF DEPOSIT REQUIREMENTS FOR GASOLINE EXCISE TAX.

(a) IN GENERAL.—Section 6302 (relating to mode or time of collection), as amended by section 6504, is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) FREQUENCY AND TIME FOR DEPOSIT OF TAXES ON GASOLINE.—

"(1) GENERAL RULE.—Any person whose liability for tax under section 4081 exceeds $100 in any month of a calendar quarter shall make deposits of such tax with respect to tax periods in any month in the succeeding quarter as determined under paragraph (2).

"(2) TIME OF DEPOSIT.—

"(A) IN GENERAL.—Any deposit of tax required with respect to any tax period under paragraph (1) shall be payable on or before—

"(i) the 9th day after the close of the tax period, or

"(ii) if such deposit is made by wire transfer to any government depository authorized under section 6302, the 14th day after the close of the tax period.

"(B) TAX PERIODS.—Each month shall include 4 tax periods ending on the 7th, 14th, 21st, and last days of such month.

"(3) SPECIAL RULE WHERE 9TH OR 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (2) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to payments of taxes for tax periods beginning after December 31, 1989.

(2) SPECIAL RULE.—Notwithstanding section 6302(f) of the Internal Revenue Code of 1986, as added by subsection (a), in applying such section in September 1990, the due date for the third tax period of such month with respect to 9-day payers and the due date for the second tax period of such month with respect to 14-day payers shall be September 27, 1990.

Subtitle E—Miscellaneous Provisions

PART I—LIKE KIND EXCHANGES BETWEEN RELATED PERSONS

SEC. 6601. LIKE KIND EXCHANGES BETWEEN RELATED PERSONS.

(a) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS, ETC.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end thereof the following new subsections:

"(f) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer exchanges property with a related person,

"(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and

"(C) before the date 2 years after the date of the last transfer which was part of such exchange—

"(i) the related person disposes of such property, or

"(ii) the taxpayer disposes of the property received in the exchange from the related person which was of like kind to the property transferred by the taxpayer, there shall be no nonrecognition of gain or loss under this section to the taxpayer with respect to such exchange; except that any gain or loss recognized by the taxpayer by reason of this subsection shall be taken into account as of the date on which the disposition referred to in subparagraph (C) occurs.

"(2) CERTAIN DISPOSITIONS NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1)(C), there shall not be taken into account any disposition—

"(A) by reason of the death of the taxpayer,

"(B) in a compulsory or involuntary conversion (within the meaning of section 1033) if the exchange occurred before the threat or imminence of such conversion, or

"(C) with respect to which it is established to the satisfaction of the Secretary that neither the exchange nor such disposition had as one of its principal purposes the avoidance of Federal income tax.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person bearing a relationship to the taxpayer described in section 267(b).

"(4) TREATMENT OF CERTAIN TRANSACTIONS.—This section shall not apply to any exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection.

"(g) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(1) IN GENERAL.—If paragraph (2) applies to any property for any period, the running of the period set forth in subsection (f)(1)(C) with respect to such property shall be suspended during such period.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This paragraph shall apply to any property for any period during which the holder's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property,

"(B) the holding by another person of a right to acquire such property, or

"(C) a short sale or any other transaction.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be necessary to prevent the avoidance of the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the transfer.

PART II—ACCOUNTING PROVISIONS

SEC. 6621. CHANGES IN TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES.

(a) CONTINGENT PAYMENTS.—Paragraph (1) of section 1253(d) (relating to treatment of payments by transferee) is amended to read as follows:

"(1) CONTINGENT SERIAL PAYMENTS.—

"(A) IN GENERAL.—Any amount described in subparagraph (B) which is paid or incurred during the taxable year on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name shall be allowed as a deduction under section 162(a) (relating to trade or business expenses).

"(B) AMOUNTS TO WHICH PARAGRAPH APPLIES.—An amount is described in this subparagraph if it—

"(i) is contingent on the productivity, use, or disposition of the franchise, trademark, or trade name, and

"(ii) is paid as part of a series of payments—

"(I) which are payable not less frequently than annually throughout the entire term of the transfer agreement, and

"(II) which are substantially equal in amount (or payable under a fixed formula)."

(b) $100,000 LIMITATION ON CERTAIN PAYMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1253(d) is amended by adding at the end thereof the following new subparagraph:

"(B) $100,000 LIMITATION ON DEDUCTIBILITY OF PRINCIPAL SUM.—Subparagraph (A) shall not apply if the principal sum referred to in such subparagraph exceeds $100,000. For purposes of the preceding sentence, all payments which are part of the same transaction (or a series of related transactions) shall be taken into account as payments with respect to each such transaction."

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 1253(d) is amended—

(A) by striking all that precedes "If" and inserting:

"(2) CERTAIN PAYMENTS IN DISCHARGE OF PRINCIPAL SUMS.—

"(A) IN GENERAL.—", and

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(c) OTHER PAYMENTS, ETC.—Section 1253(d) is amended by adding at the end thereof the following new paragraphs:

"(3) OTHER PAYMENTS.—

"(A) IN GENERAL.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) or (2) does not apply shall be treated as an amount chargeable to capital account.

"(B) ELECTION TO RECOVER AMOUNTS OVER 20 YEARS.—

"(i) IN GENERAL.—If the taxpayer elects the application of this subparagraph, an amount chargeable to capital account—

"(I) to which paragraph (1) would apply but for subparagraph (B)(ii) thereof, or

"(II) to which paragraph (2) would apply but for subparagraph (B) thereof,

shall be allowed as a deduction ratably over the 20-year period beginning with the taxable year in which the transfer occurs.

"(ii) CONSISTENT TREATMENT.—An election under clause (i) shall apply to all amounts which are part of the same transaction (or a series of related transactions).

"(4) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement or any period of amortization under this subsection, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(b) TECHNICAL AMENDMENTS.—

(1) DEPRECIATION ALLOWABLE.—Subsection (r) of section 167 is hereby repealed.

(2) DEDUCTION SUBJECT TO RECAPTURE.—

(A) Subparagraph (C) of section 1245(a)(2) is amended by striking "or 193" and inserting "193, or 1253(d) (2) or (3)".

(B) The material preceding subparagraph (A) of section 1245(a)(3) is amended by striking "section 185" and inserting "section 185 or 1253(d) (2) or (3)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers after October 2, 1989.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before the transfer.

SEC. 6622. RESERVES OF MUTUAL SAVINGS BANKS AND OTHER THRIFT INSTITUTIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end thereof the following new subsection:

"(f) ORGANIZATIONS FAILING 60-PERCENT ASSET TEST.—

"(1) GENERAL RULE.—In the case of any taxpayer described in subsection (a)(1) which ceases to be so described or which fails to meet the requirements of subsection (a)(2)—

"(A) except as provided in this subsection, this section shall not apply for the disquali-

fication year or any succeeding taxable year, and

"(B) if the taxpayer maintained any reserve for bad debts for its last taxable year before the disqualification year, the rules of paragraph (3)(A) of section 585(c) (without regard to paragraph (4) thereof) shall apply for the disqualification year with respect to the portion of such reserve allocable to additions to such reserve under the experience method of subsection (b)(3).

"(2) SUBSEQUENT LOSSES.—If paragraph (1) applies, the taxpayer shall continue to maintain its remaining reserves for loans held by the taxpayer as of the 1st day of the disqualification year and—

(A) the rules of subsection (e) shall continue to apply to such reserves, and

(B) the taxpayer shall charge against such reserves for any taxable year losses resulting from loans held by the taxpayer on such 1st day to the extent that the cumulative losses from such loans as of the close of such taxable year (reduced by recoveries) does not exceed the cumulative amount included in gross income by reason of paragraph (1)(B) as of the close of such taxable year.

"(3) DISQUALIFICATION YEAR.—The term 'disqualification year' means the 1st taxable year ending after the date of the enactment of this subsection for which a taxpayer described in subsection (a)(1) ceases to be so described or fails to meet the requirements of subsection (a)(2).

"(4) ELECTION IRREVOCABLE.—An election under paragraph (1), once made, is irrevocable."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

PART III—EMPLOYMENT TAX PROVISIONS

SEC. 6631. TREATMENT OF AGRICULTURAL WORKERS UNDER WAGE WITHHOLDING.

(a) IN GENERAL.—Paragraph (2) of section 3401(a) (defining wages) is amended to read as follows:

"(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or".

(b) CREW LEADER RULES TO APPLY.—Section 3401 is amended by adding at the end thereof the following new subsection:

"(h) CREW LEADER RULES TO APPLY.—Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1989.

SEC. 6632. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—

"(1) IN GENERAL.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall, for the year specified in paragraph (2), make deposits of such taxes on the applicable banking day after any day on which such person has an amount equal to or exceeding the threshold amount of such taxes for deposit. Rules similar to the rules of section 5061(e)(3) shall apply to the threshold amount in the preceding sentence.

"(2) SPECIFIED YEARS.—For purposes of paragraph (1)—

"In the case of:	"The applicable banking day is:
1990	1st
1991	3rd
1992	3rd
1993	1st
1994	2d.

"In the case of:	"The threshold amount is:
1990	$1,950,000
1991	$1,500,000
1992	$1,600,000
1993	$1,700,000
1994	$1,775,000."

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts required to be deposited after July 31, 1990.

(2) RULE FOR 1995 AND THEREAFTER.—For calendar year 1995 and thereafter, the Secretary of the Treasury shall prescribe regulations with respect to the date on which deposits of such taxes shall be made in order to minimize the unevenness in the revenue effects of the amendment made by subsection (a).

PART IV—OTHER PROVISIONS

SEC. 6681. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS OF CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary—

"(A) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution, and

"(B) if any property so contributed is distributed by the partnership (other than to the contributing partner) within 3 years of being contributed—

"(i) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under subparagraph (A) by reason of the variation described in subparagraph (A) if the property had been sold at its fair market value at the time of the distribution,

"(ii) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

"(iii) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this subparagraph.

"(2) SPECIAL RULE FOR DISTRIBUTIONS WHERE GAIN OR LOSS WOULD NOT BE RECOGNIZED OUTSIDE PARTNERSHIPS.—Under regulations prescribed by the Secretary, if—

"(A) property contributed by a partner (hereinafter referred to as the 'contributing partner') is distributed by the partnership to another partner, and

"(B) other property of a like kind (within the meaning of section 1031) is distributed by the partnership to the contributing partner not later than the earlier of—

"(i) the 180th day after the date of the distribution described in subparagraph (A), or

"(ii) the due date (determined with regard to extensions) for the contributing partner's return of the tax imposed by this chapter for the taxable year in which the distribution described in subparagraph (A) occurs,

then to the extent of the value of the property described in subparagraph (B), paragraph (1)(B) shall be applied as if the contributing partner had contributed to the partnership the property described in subparagraph (B).

"(3) OTHER RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of paragraph (1) shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items. Any reference in paragraph (1) or (2) to the contributing partner shall be treated as including a reference to any successor of such partner."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of property contributed to the partnership after October 3, 1989, in taxable years ending after such date.

SEC. 6682. ELIMINATION OF RETROACTIVE CERTIFICATION OF EMPLOYEES FOR WORK INCENTIVE JOBS CREDIT.

(a) IN GENERAL.—So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

"(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as—".

(b) EFFECTIVE DATE.— The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987.

Subtitle F—Coordination With Budget Act

SEC. 6701. COORDINATION WITH BUDGET ACT.

Any transfer of outlays, receipts, or revenues pursuant to this title (including section 6209, 6507, 6631, or 6632) is a necessary (but secondary) result of a significant policy change for purposes of section 202 of the joint resolution entitled "Increasing the statutory limit on the public debt" (Public Law 100-119), approved September 29, 1987.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 17, 1989, at 2:30 p.m. to consider the following:

AGENDA: SENATE JUDICIARY COMMITTEE BUSINESS MEETING

(Tuesday, October 17, 1989 at 2:30 p.m. in SD-226)

I. NOMINATIONS

United States Circuit Court

Conrad K. Cyr, to be United States Circuit Judge for the First Circuit Court of Appeals

United States District Court

Rebecca Beach Smith, United States District Court Judge for the Eastern District of Virginia

Marvin J. Garbis, United States District Court Judge for the District of Maryland

Department of Justice

Stuart M. Gerson, Assistant Attorney General, Civil Division, Department of Justice

United States Attorney

Jeffrey R. Howard, to be United States Attorney for the District of New Hampshire

Robert W. Genzman, to be United States Attorney for the Middle District of Florida

Michael D. McKay, to be United States Attorney for the Western District of Washington

U.S. Marshals

Herbert M. Rutherford III, to be United States Marshal for the District of Columbia

II. COMMEMORATIVES

S.J. Res. 158—A bill to designate October 22 through 28, 1989, as "World Population Awareness Week."—Kerry

S.J. Res. 159—A bill to designate April 22, 1990 as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.—Gore

S.J. Res. 164—A bill to designate the year 1990, as the "Inernational Year of Bible Reading."—Nickles

S.J. Res. 177—A bill to designate October 29, 1989, as "Fire Safety at Home—Change Your Clock, Change Your Battery Day."—Bond

S.J. Res. 181—A bill to establish calendar year 1992 as the "Year of Clean Water."—Mitchell

S.J. Res. 184—A bill to designate the periods commencing on November 26, 1989 and ending on December 2, 1989, and commencing on November 28, 1990 and ending on December 2, 1990, as "National Home Care Week."—Hatch

S.J. Res. 186—A bill to designate the week of March 1 through March 7, 1990 as "National Quarter Horse Week."—McClure

S.J. Res. 194—A bill to designate November 12-18, 1989 as "National Glaucoma Awareness Week."—Lautenberg

S.J. Res. 196—A bill to establish the month of October, 1989, as "Country Music Month."—Gore

H.J. Res. 401—A joint resolution to establish the month of October, 1989 as "Country Music Month."—Gore

S.J. Res. 204—A bill to designate October 28, 1989 as "National Women Veterans of World War II Day."—Nunn

S.J. Res. 212—A bill to designate April 24, 1989, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."—Dole

S.J. Res. 213—A bill to designate October 22 through October 29, 1989 as "National Red Ribbon Week for a Drug-Free America."—Boschwitz

III. BILLS

S. 32—A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes—Thurmond

S. 458—A bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes—DeConcini

S. 438—To amend chapter 96 of title 18, United States Code—DeConcini

S. 865—To amend the Sherman Act regarding retail competition—Metzenbaum

S.J. Res. 14—Joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation—Thurmond

S.J. Res. 23—Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations—Dixon

S. 1259—A bill to amend section 3143 of title 18, United States Code, to require the detention of any person found guilty of a violent offense pending sentence of appeal, and for other purposes—Simon

S. 594—A bill to establish a specialized corps of judges necessary for certain federal proceedings required to be conducted, and for other purposes—Heflin

S. 84—A bill to amend title 28, United States Code, to provide Federal debt collection procedures—Biden

S. 993—A bill to implement the convention on the prohibition of the development, production, and stockpiling of bacteriological (biological) and toxin weapons and their destruction, by prohibiting certain conduct relating to biological weapons—Kohl

S. 185—A bill to amend title 18 of the United States Code to punish as a federal criminal offense the crimes of international parental child abduction—Dixon

S. 198—A bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs—Hatch

S. 497—A bill entitled the "Copyright Remedy Clarification Act"—DeConcini

S. 1271—A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments—DeConcini

S. 1272—A bill to amend chapter 8 of title 17, United States Code, to reduce the number of Commissioners on the Copyright Royalty Tribunal, to provide for lapsed terms of such Commissioners, and for other purposes—DeConcini

S. 459—A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1985, with respect to the use of inventions in outer space—Gore

S. 82—A bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated—Thurmond

S. 1563—A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact

S. 1485—A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa—Grassley

S.J. Res. 183—Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget—Simon

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

INTERNATIONAL PANEL ON UNESCO

● Mr. MOYNIHAN. Mr. President, I rise today to bring to the attention of my colleagues a report on an issue of great significance to the United States. Five years ago the United States withdrew from the U.N. Educational, Scientific and Cultural Organization [UNESCO]. Ambassador Jean Gerard, the U.S. representative to UNESCO, gave three reasons for the decision to withdraw: The increasing politicization of UNESCO, the corruption which had crept into the financial and recruiting practices there, and the attitude of the Director General at the time, Mr. Amadou M'Bow, who consistently expressed anti-United States views. A further significant reason was the assault on the free flow of information under the rubric of a "New World Information and Communications Order."

Today UNESCO is under new leadership and has instituted many reforms. The new Director General, Federico Mayor, is a distinguished biochemist from Spain. I have met with Director General Mayor. He is a serious man, and he appears to recognize how far UNESCO had strayed from its substantive mission.

Because of the recent changes at UNESCO the United States can once again consider rejoining. This question is being discussed in many forums. Last April I presided over a hearing before the Committee on Foreign Relations which explored the changes being made at UNESCO. Recently hearings were held in the House. Now the United Nations Association-USA has released the conclusions of an important new study which was conducted under the leadership of the extremely distinguished former Senator from Vermont, Robert T. Stafford. The study analyzes the stake which the United States has in the activities of UNESCO. Another study, to be released shortly, will address directly the question of whether the United States should rejoin the organization.

Because of the importance of this issue, the high quality of the report and the distinction of the members of the UNA-USA panel, I believe that the report and its conclusions deserve close attention, and I ask that the contents of the report be printed in the RECORD.

IN THE MINDS OF MEN

(Summary of Findings of the Report of the International Panel on UNESCO)

If the architects of the U.N. system had not thought to create a UNESCO in 1945, some such institution would have to be created today. The problems and needs in the sectors addressed by UNESCO—education, science, culture and communication—are by now inescapably international.

In its first years UNESCO compiled an impressive record as the intellectual center of the multilateral system, enjoying high prestige and access to intellectual circles around the world. But to recall what UNESCO was only underscores the dramatic deterioration since. While its core programs have continued, a sense of the organization's greater purpose and public respect for its competence have faded; the departure of three

member states in quick succession was more symptom than cause of the agency's troubles. The world community has had to reexamine what it expects of UNESCO and the means by with UNESCO can fulfill those expectations.

UNESCO's primary role must be one of energizer and catalyst, a generator of ideas for concerted action among professional communities and governments rather than an administrator of sprawling programs. This role demands access to the leading thinkers and practitioners in UNESCO's fields. For an organization like UNESCO their defection is the most deadly by far. If UNESCO's only constituency is government bureaucracies, its creative spark will be gone and its usefulness spent. In fact, the intellectual communities' commitment to the agency has weakenened as UNESCO's performance has seemed to slacken.

OPPORTUNITY AND PURPOSE

At UNESCO a process of renewal is already under way, restoring some measure of confidence about the agency's competence and potential effectiveness. To sustain this, UNESCO must have a program relevant to the interests and needs of the professional and intellectual communities both in developed countries, where these communities and their networks are well established, and in developing countries, where UNESCO must nurture their growth and independence.

Of course, it is important to recall the budgetary realities that sharply limit UNESCO's reach. With a regular budget of only U.S. $175 million a year, the agency cannot be expected to furnish a remedy for every transborder problem that falls under its umbrella. This is a caution that Director-General Federico Mayor has wisely elevated to a first principle of his reform program: Do less to do better.

Still, after the sharp program curtailments of 1985-6, the panel recommends approval of the modest (2.5 percent) real budgetary increase the Director-General has requested for program "reinforcement" in the next biennium. Such an increase would be a sign of returning confidence in the agency and its improved management.

Acknowledging the financial constraints, the panel notes several areas in UNESCO's fields of specialization that merit the organization's attention in coming years:

Education

The 1980s were not a good decade for this core UNESCO concern, with many countries slashing education expenditures as part of debt adjustment programs. UNESCO often seemed on the sidelines, making little impact on the policy debate. Furthermore, one of UNESCO's principal weaknesses was shown to be its shallow roots in the education sectors of developed countries.

For UNESCO to be truly relevant worldwide it must be a global resource to feed new thinking—even leaking fresh ideas past the defenses of educational bureaucracies, whether state or professional. At the same time, it must work closely with these bureaucracies on priority programs, of which the promotion of *literacy* is obviously the most urgent. The panel views *adult education* (including maintenance of literacy skills and exchanges of research on "functional illiteracy"), the *education of ethnic and racial minorities* (of growing urgency in the developed countries) and the *measurement of student ability and achievement* as other important areas for UNESCO activity. UNESCO should help to spark wider dialogue on a number of other areas where it has a comparative advantage—science education, core school curricula, teacher training and qualifications, and interculturral studies.

Science

UNESCO is the only overarching agency that deals with "pure" as well as applied science and reaches across all scientific disciplines. It is also the one international agency that helps to promote the development of science—and particularly of a "scientific culture"—in countries where it is not yet rooted. The strengthening of nongovernmental scientific organizations in Third World countries must be a conscious priority of UNESCO's science program.

Topping the world's scientific agenda at the end of the century are problems of environmental quality and sustainability. UNESCO is the one multilateral agency that works with all the research disciplines relevant to environmental problems, and it has long organized scientific collaboration in these fields. While continuing to promote research, the organization must now forge clearer lines of cooperation with the U.N. Environment Programme. UNESCO has had less success in its social science program, yet sound research on the human impact of environmental problems is required before workable policy responses can be devised.

Culture

UNESCO's activities in the cultural sector are well managed and successful. However, because of political demands UNESCO's resources—even the "resource" of undertaking an international safeguarding campaign—have been spread too thinly.

Communication

The panel concurs with the emerging consensus in UNESCO's governing bodies that the organization must move beyond the confines of the "new information order" debate to "a new strategy on communication" if it is to meet the urgent communication challenges of the 21st century. Indeed, the rapid development of communication technology, which is thrusting UNESCO into the role of global switching point to access data bases worldwide, could make much of the debate of the 1970s obsolete and raises other fundamental issues about which UNESCO should encourage new thinking.

The panel sees two distinct but compatible principles as essential underpinnings of UNESCO's communication program, neither limiting the other: (1) defense of the "free flow of ideas, by word and image," and (2) remedying serious imbalances in communication capabilities around the world that keep information and ideas from entering the international flow. UNESCO's efforts to increase diversity and improve the balance should include training and support for independent print and broadcast facilities, and in particular for independent journalists.

The panel sees a fundamental issue emerging in the new information technology: the potential "commodification" of information. More and more, international flows of information services are being placed in categories of conventional trade and treated simply as commercial issues. But the impact of communication on culture in general is so profound that it should also be viewed in a context broader than trade. Distinguished scholarship is a prerequisite for informed debate on the implications of these issues.

Human rights

UNESCO has a constitutional mandate to promote universal respect for human rights and diffuse worldwide a human rights cultural awareness. The agency's efforts seem to have lost momentum over the past decade. UNESCO needs closer relationships with leading nongovernmental human rights groups, it should look more often to outside organizations than to its permanent staff when it comes to carrying out program activities, and it should do a better job of coordinating its work with other international human rights units.

UNESCO's procedure for hearing rights complaints was reasonably successful a decade ago, but governments charged with violations now seem to treat it less seriously. The secretariat should solicit recommendations from nongovernmental human rights organizations about ways to improve its effectiveness and the Executive Board should take up long-stalled cases in public sessions.

WHOLENESS

It is clear that the emerging issues in UNESCO's several fields of competence present challenges that national governments cannot meet by acting alone. It is also clear that UNESCO's effectiveness in meeting these challenges depends in part on the active participation of the leading nations that withdrew from membership in the mid-1980's. Although the organization has demonstrated it can survive without them, it survives severely disabled.

The panel members from the other regions of the globe welcome the findings of their American colleagues that a return to UNESCO is important to America's interests in the multilateral system. It is inconceivable that the United States would have interests in science, culture, education, and communication so different from those of the rest of the world that it could not participate in the one U.N. agency that looks after these sectors.

RICHNESS OF PARTICIPATION

Were the United States, Britain, and Singapore to rejoin UNESCO, the organization would regain its universality yet remain an underperformer. The organization requires a fundamental structural reform to realize its mission fully.

The key to UNESCO's success is *professionalization:* Agency decision-making must embrace the expertise and commitment of professionals in all UNESCO's fields of competence. Characteristically, the organization's most successful efforts have been in those areas—science prominent among them—in which the relevant professional communities have been involved in every aspect of the program, including management. UNESCO's governing bodies should define broad program guidelines and appropriate funds among the major program areas, leaving specific allocations within program areas to the secretariat on recommendations of expert oversight councils in each sector.

National commissions

UNESCO's founders had hoped that national commisions would enable the agency to forge grassroots ties to the world's professional and intellectual communities. The quality of the national commissions, however, is very uneven. The panel believes they must be strengthened by requiring that most members be drawn from outside government ministries, designated directly by their institutions and associations, with periodic review by the Executive Board of

each member state's national commission to ensure it is validly constituted. Nominations for the Executive Board should be considered by the General Conference only if they originally emanate from validly constituted national commissions. A formal process of consultations by Executive Board members with the national commissions of their own and neighboring countries should be established.

The executive board

An organ originally intended as a small "executive" body of distinguished persons has become an institution of such unmanageable size and agendas that it cannot effectively fulfill the functions originally entrusted to it. The length of Executive Board meetings is excessive—and a strong disincentive for individuals of distinction and responsibility to consider serving on it.

Substantial restructuring is required. The panel recommends the reallocation of work within the Board to shorten its meeting periods and endow it once again with a genuine oversight function. It should meet once a year, with virtually all of its time devoted to meetings of its committees and commissions for detailed review of the organization's programs; the work of these panels should not be rehashed in plenary sessions of the full Board.

The Bureau of the Board, an existing body of 12 members, should become its nerve center, reviewing and integrating the various commission reports and maintaining close oversight of the secretariat's work and the agency's program. The Bureau should prepare the agenda of the General Conference and act as the Board's search committee for candidates for Director-General.

To encourage the highest quality of members on the Executive Board, the network of international nongovernmental organizations should evaluate candidates to be presented to the General Conference. Board members should be permitted to serve two consecutive terms, and the Board should have a core staff of its own. Fundamental structural reforms will enhance the quality and stature of the Executive Board—and its effectiveness.

The general conference

UNESCO's supreme legislative body, the General Conference, also needs—and should welcome—a streamlining of its proceedings to lighten its workload and shorten its sessions, drawing on the experience of other specialized agencies.

The General Conference should transfer responsibility for a number of administrative, financial, and personnel matters to the Executive Board. It should concentrate its most important policy-making business in a few days, scheduling together the kind of priority items that should command the attention of top-ranking government ministers and other delegates of distinction whose time is previous.

Finance

Since overall budgetary authorizations can become a divisive issue, the panel suggests that the General Conference create a formal mechanism through which major and minor contributors, enjoying comparable negotiating power, can reach early agreement on a spending ceiling. For the immediate future, in expectation that large contributors may return to membership after the 1990-91 budget and assessments are fixed, the General Conference should authorize the creation of a separate account for any unanticipated revenues, to be used primarily for nonrecurring expenses.

Effective direction

Director-General Mayor has initiated far-reaching reforms that hold the promise of restoring professionalism to the management of the agency. There is some evidence, however, that the agency may need a single management alter ego to the Director-General. To ensure freshness and innovativeness in the top job, a limitation to no more than two successive terms for the Director-General seems appropriate.

An intellectual center

It is essential that the organization secure some of the world's most eminent personalities in its several fields to help chart the agency's direction and shape its program. The panel recommends—perhaps initially on a trial basis—the creation of a prestigious "council of eminent advisers," composed of distinguished men and women in the areas of science, education, culture, communication, and human rights, nominated by the Director-General after consultation with the nongovernmental community, and confirmed by the General Conference. The council would advise the secretariat and Executive Board about emerging issues on which international cooperation is essential and about the research programs needed to respond to them; recommend pilot projects for the agency to initiate; control a modest budget subject to approval by the Director-General and the Bureau; and propose to the Director-General the names of experts for appointment to the sectoral oversight councils.

The council of eminent advisers would serve as the intellectual center for UNESCO, linking it directly to the leadership of the world's premier academic, research, and creative networks.

CONCLUSION

The panel believes it is essential that the world community grasp the current opportunity to reform and give new life to the U.N.'s educational, scientific, and cultural organization. Its work is important now and will become more so with the relentless globalization of problems. Despite remarkable progress in recent years, UNESCO needs to undergo an even more profound transformation with fundamental structural reform and a concentrated mission to anticipate and meet the challenges of the coming century.

UNA-USA AMERICAN PANEL ON UNESCO

CHAIRMAN

Robert T. Stafford, Former United States Senator (Republican of Vermont).

PANEL MEMBERS

Mary Hatwood Futrell, Former President, National Education Association; Vice President, World Confederation of Teaching Professions.

Walter Rosenblith, Professor Emeritus, Massachusetts Institute of Technology; Former Vice President, International Council of Scientific Unions.

John R. Stevenson, Counsel, Sullivan & Cromwell; President, National Gallery of Art Board of Trustees.

Leonard R. Sussman, Senior Scholar in International Communications, Freedom House.

Esteban Torres, Member, United States House of Representatives (Democrat of California); Former Permanent Representative of the United States to UNESCO.●

NORTH AMERICAN WETLANDS CONSERVATION ACT

● Mr. CHAFEE. Mr. President, in July, the Committee on Environment and Public Works voted unanimously to report S. 804, the North American Wetlands Conservation Act. This legislation enables the United States to fulfill its commitment, under the North American Waterfowl Management Plan, to protect important wetland habitats throughout the United States, Canada and Mexico.

Countless species of waterfowl and other birds, fish and wildlife depend on wetland areas for nesting, feeding and spawning. The combined effects of drought conditions in the prairies of the United States and Canada and the continuing conversion and development of wetlands, have contributed to a wetlands loss rate of over 400,000 acres per year. This has led to precipitous declines in populations of ducks, geese, and other migratory birds.

In 1986, the United States Secretary of Interior and the Canadian Minister of the Environment signed the North American Waterfowl Management Plan. This plan is a strategy for protecting, restoring and enhancing wetland areas throughout the continent in order to restore waterfowl populations to levels of just a decade ago. In a speech before a Ducks Unlimited gathering earlier this year, President Bush expressed support for the North American Waterfowl Management Plan and for legislation designed to achieve its habitat protection goals.

S. 804 provides the structure and the funding to implement the North American Waterfowl Management Plan and protect wetlands for the benefit of all species which depend upon such habitats. Earlier this week, the House of Representatives passed legislation similar to S. 804. I urge my colleagues to lend their support to S. 804. Let's get this bill to the President.

Mr. President, an excellent article on this issue by the Director of the Fish and Wildlife Service John Turner was printed recently by the Orvis News in Manchester, VT. I ask that a copy of this article be printed in the RECORD following my remarks.

The article follows:

IS THERE STILL HOPE FOR WATERFOWL?

My roots are in Wyoming. I grew up in Jackson Hole where I was blessed with opportunities to develop lifelong addictions for fishing, hunting, wildlife photography, running rivers, or just wandering high country.

Like most outdoor persons, some of my most memorable wildlife encounters have involved waterfowl. Exploding ducks lifting from the cold quiet of a frosted beaver dam at dawn. The pristine cry of sandhill crane parents trying to decoy this invading fly fisherman from a new hatchling. Against a red late day sky, V'ed flocks of geese and ducks overhead announcing the final chapters of fall. These are images I want my two sons and daughters, along with future gen-

erations of Americans, to be able to enjoy for the enrichment of their lives.

Unfortunately, as I begin my watch as director of the U.S. Fish and Wildlife Service, the number of ducks making flights across our land has declined sharply. This year's projected fall flight of 64 million birds is the second lowest on record and is well under the 100 million bird flights that were common in the 1970s. In short, ducks have taken a battering during the 1980s as persistent drought—the "big dry" we call it out West—and perhaps more lasting forms of habitat loss and destruction have ravaged their breeding grounds on the vast U.S. and Canadian prairies.

As waterfowlers know all too well, the duck decline has resulted in some of the most restrictive hunting regulations of the last quarter century. These reductions in bag limits and season lengths have worked (the duck harvest was cut 50 percent last year) and are generally in effect again this year.

Most hunters understand the need for these restrictions. They are willing to sacrifice to help duck numbers recover. Many are concerned to the point they believe the very future of waterfowl hunting hangs in the balance. Beyond hunting restrictions, they are asking, what is being done for ducks?

What more hunters and all lovers of wildfowl need to know is that there is an exciting battle plan to bring ducks back to our skies . . . it's called the North American Waterfowl Management Plan. Devised by Canadian and U.S. waterfowl experts and signed into being by the two governments in 1986, the Plan proposes to do nothing less than restore fall flights of ducks to the 100 million level by the year 2000.

The Plan is a massive undertaking. Its goal is to raise $1.5 billion to restore and enhance 6 million acres of waterfowl habitat between now and the end of the century. Stopping the destruction of wetlands—the biggest factor in waterfowl declines—is what this plan is all about. The effort will play a leading role in President Bush's and Interior Secretary Lujan's excellent goal of saving the country's precious wetlands. The Plan will also yield substantial added benefits for shore and wading birds and a host of other wetland wildlife species.

I first heard about the Plan a year or so ago, but I really wasn't aware of its ambitious goals until it became a part of my portfolio when I was sworn in as Director of the Fish and Widlife Service this August. Well, I'm a believer now. The North American Waterfowl Management Plan offers our best (and maybe our last) chance to have sufficient numbers of waterfowl to maintain and improve the great sport and tradition of waterfowl hunting. I want other hunters and wildlife lovers throughout America to become believers. Everyone needs to climb aboard. The Plan will need massive levels of citizen interest and support if it is to achieve its fullest potential. The payoff is worth your involvement.

In spite of its relative anonymity, the North American Plan has accomplished a great deal in its first two years. Three dozen projects—ranging from small farmlands to huge government-owned sites—have been started from coast to coast, and many more are about to be launched. Encompassing millions of acres, these projects are focused in and coordinated under "Joint Venture" areas (see map).

What is Joint Venture? As the name implies, it is a partnership. It is important to note that these Joint Ventures are not just a federal show of the governments of Canada and the United States. Rather, the mainspring is a unique partnership that includes the states and provinces in both countries and more than 40 private conservation groups—outfits like Ducks Unlimited, the National Wildlife Federation, Izaak Walton League, and The Nature Conservancy. (The Orvis News in May reported on the partnership efforts by Ducks Unlimited and The Nature Conservancy to restore wetlands in California and South Dakota.) At a time when both private and public funds are hard to come by, this partnership is incredibly important to the Plan's success.

Some of the Plan's first money came from 12 state fish and wildlife agencies which somehow squeezed a total of $1 million out of their hard-pressed budgets to get the ball rolling. Ducks Unlimited put up a matching amount, the U.S. Government provided $2 million through the federally-created National Fish and Wildlife Foundation, and Canada raised $4 million to match the amount raised in the United States. The $8 million was then used on the Canadian prairies to begin a major habitat improvement effort in the Quill Lakes area of Saskatchewan.

Projects under the Joint Ventures aren't measured by size alone. The Ohio Divison of Wildlife is spearheading an effort to protect 5,200 acres of freshwater coastal marshes and estuaries along Lake Erie under auspices of the Plan. On a smaller scale yet, the Fish and Wildlife Service recently leased 640 acres of riceland near Kaplan, Louisiana, as a resting and feeding area for wintering waterfowl. In both cases, the size of these tracts is less significant than their importance as feeding areas for waterfowl.

Our country's participation is headed by the U.S. Fish and Wildlife Service, whose professionals are front-line veterans in the struggle to conserve wetlands. In addition, increasingly valuable wetlands conservation work is being undertaken by such agencies as the Bureau of Land Management, the U.S. Forest Service, and the Corps of Engineers.

Private landowners, who own 66 percent of the remaining wetlands in the United States, are also pitching in. Under the Farm Bill of 1985, many farmers have agreed to protect or even restore their wetlands. Landowner cooperation and positive support have been outstanding so far in Joint Venture areas where real pick and shovel work has begun.

I'm still a greenhorn when it comes to life in our nation's Capitol, but I immediately discovered that the North American Plan and the cause of conserving wetlands have strong support in the White House, on both sides of the aisle in Congress, and with sportsmen and conservation groups in Washington, D.C.

President Bush helped set the tone when he established "no net loss of wetlands" as one of his top environmental priorities, noting that we have already lost one half of the wetlands that existed when the Pilgrims landed. Subsequently, a number of bills to increase support for the North American Plan have been introduced in Congress by Republicans and Democrats alike. Finally, in a June speech at a Ducks Unlimited waterfowl symposium, President Bush endorsed the North American Plan and set up an interagency task force under the Domestic Policy Council to help develop united Federal policy to save wetlands and, "to stop the destruction of these precious habitats."

With this kind of interest, it appears marshes, estuaries, potholes, bogs, and swamps—as well as the plant and animal communities they support—are on the verge of becoming socially and politically acceptable inside Washington's Beltway.

Still, all of us who have spent time enjoying waterfowl and countless other wetland species know that much remains to be done. You can learn about the North American Plan and become involved. Join cooperative efforts of local clubs and national hunting, fishing, and conservation groups. Your help is critical in insuring that some of our most precious wild resources don't become memories.

The future of wild wings and wild lands will be an important test of the real wealth of our society and the overall well being of our nation's environment. Ducks and geese—and all they represent, need everyone's help now. Welcome aboard.

Joint Ventures are the cooperative efforts that are the heart and soul of the North American Plan.

The six United States habitat Joint Ventures are:

The U.S. Prairie Joint Venture will protect 1.1 million acres of "pothole" habitat.

The Lower Mississippi Vally Joint Venture will protect 300,000 acres of wintering habitat.

The Central Valley Venture will protect 80,000 acres of pintail habitat in California.

The Gulf Coast Joint Venture will protect 386,000 acres of wintering habitat.

The Great Lakes-St. Lawrence Lowlands Joint Venture is designed to protect 10,000 acres of black duck habitat.

The Atlantic Coast Joint Venture will protect 50,000 acres of breeding and migration habitat for black ducks.●

HONORING COL. JAMES C. ADAMSON, U.S.A. NASA ASTRONAUT

● Mr. D'AMATO. Mr. President, I rise today to pay recognition to Col. James C. Adamson, a U.S.A. NASA astronaut. Colonel Adamson will be a mission specialist for the five-member crew voyaging into space on the shuttle *Columbia.*

Adamson grew up in Groveland which is in Livingston County, NY. The town is thrilled as well as proud that Adamson will be venturing into space. Through the colonel's outstanding work and accomplishments, he proved his ability to be one of the five crewmembers to set out on this latest exploration on the *Columbia.*

Colonel Adamson is definitely one of the most qualified astronauts we have in America today. His lists of accomplishments include being a West Point graduate, test pilot, having a master's degree in aeronautical engineering from Princeton University, and serving as a Vietnam helicopter pilot. These qualifications allowed him to be 1 of the 17 new astronauts out of 5,000 applicants in 1984.

Mr. President, I would like to wish Colonel Adamson the best of luck in his space travel on the *Columbia* and look foward to his safe return. Thanks

to him, Americans will learn tremendously from his experience.●

NO VISA FOR ARAFAT

● Mr. BOSCHWITZ. Mr. President, the U.N. will soon hold its annual debate on Palestine. Because of this, the question has once again arisen as to whether the State Department should issue a visa to PLO chairman Yasser Arafat if he applies for one.

Some argue that with the beginning of the United States-PLO dialog, based on Arafat's statement in Geneva last year recognizing Israel's right to exist, renouncing terrorism, and accepting Security Council Resolution 242, conditions have changed and a visa should be granted. I disagree. I urge that the State Department continue to refuse to issue a visa to Yasser Arafat.

Developments over the past year have continued to raise doubts as to whether the PLO truly wants a peaceful solution to the Israeli-Palestinian dispute. Arafat himself has continued to speak in terms which lay open to question the extent of his commitment to such a solution.

And just this past August, a congress of the PLO's largest organization, Fatah—which Arafat heads—issued a political program that was so extreme and objectionable that it could only lead to the conclusion that Arafat is unwilling to live in peace with an independent Jewish state.

Mr. President, I believe many Americans agree with me that Arafat should not be granted a visa. Recently, the writer George Will eloquently argued the point against letting him into the United States. I commend to my colleagues' attention Mr. Will's article.

The article follows:

[From the Washington Post, Sept. 17, 1989]

NO VISA FOR ARAFAT

(By George F. Will)

Nine months after a diplomatic debacle, the United States is in danger of making matters worse. The Bush administration, which is relentlessly and sometimes obnoxiously eager to underscore the obvious—that it is not the Reagan administration—may well pick up where the Reagan administration left off in appeasing the Palestine Liberation Organization.

The question is: What will happen if Yasser Arafat requests a visa to visit his kindred spirits, of which there are all too many, at the United Nations?

Late last autumn, to enable it to do what it had long wanted to do—deal directly with the PLO—the State Department became Arafat's lyricist, coaxing him to sing the right (well, the State Department's idea of the right) words. The three U.S. conditions were recognition of Israel, acceptance of U.N. Resolution 242 and renunciation of terrorism. The PLO did none of the three, but feigned agonies of surrender, so State ruled that it had done all three.

The PLO slightly softened its rhetoric of implacable hostility toward Israel, hostility still enshrined in the PLO covenant, which declares Palestine "invisible" and vows "elimination of Zionism in Palestine." The PLO "accepted" Resolution 242 (as the PLO misconstrues it to require complete withdrawal to the 1967 borders).

But the PLO accepted 242 in the context of "relevant" U.N. resolutions. These—"Zionism is racism" and the rest—have the cumulative meaning of mandating Israel's destruction.

Today, as 10 months ago, the PLO, speaking to its constituencies, reassures them that its diplomatic maneuvers are merely part of a phased approach to the liquidation of Israel. The two-stage, two-state strategy is to reduce Israel to indefensible borders by means of a PLO satrapy on the West Bank, and then use violence.

Regarding terrorism, the PLO said: We never have used it, we promise to stop using it, and attacks against Israelis are not terrorism. Since then, the PLO has increased terrorism in three ways. There have been more attacks across the border, including squads from the Fatah faction. PLO radio from Baghdad incites and praises terrorism within pre-1967 Israel, such as the act of plunging an Israeli bus into a ravine. And there has been a sharp increase in murders of moderate Palestinians—89 so far—on the West Bank.

Israel has serious plans for accommodating its security needs and Palestinian political aspirations. Israelis cite as a possible model Spain's concessions to Catalan cultural and political autnomy. (Implicit in that analogy is Israeli annexation of the West Bank.) Refugee camps could be replaced by towns for $2 billion—if, say, 10 European nations would put their money (a mere $40 million each for just give years) where their mouths incessantly are. But what moderate Palesinians will come forward to negotiate? They see other moderates murdered, and the United States is worse than merely mute, it is absolving the "umbrella organization."

Concerning whether the PLO is a terrorist organization, State's position is: it cannot be such an organization because we are talking with it, and we are not allowed to talk with terrorists. State also says the PLO is an "umbrella organization" and that Fatah is one faction bound by Arafat's supposed renunciation of terrorism. How does State verify compliance? The point of the PLO "umbrella" structure is to allow appeasement-minded Westerners to say they cannot trace a thread of responsibility for Palestinian terrorism.

Six months ago, Arafat reaffirmed the PLO goal of "the complete liberation of the Palestinian soil and the establishment of a Palestinian state over every part of it." Five months ago the head of the PLO's political department said: "The recovery of but a part of our soil will not cause us to forsake our Palestinian land. . . . We shall pitch our tent in those places which our bullets can reach. . . . This tent shall then forth the base from which we shall later pursue the next phase."

Three months ago, the leader of the PLO's second largest faction said: "The establishment of a Palestinian state in the West Bank and Gaza will be the beginning of the downfall of the Zionist enterprise. . . . [Our goal] is the complete liberation of the national Palestinian soil." Last month the Fatah conference in Tunis reaffirmed that the 1948 partition of Palestine was a "crime."

The Bush administration, which prides itself on believing that all differences are splitable, cannot imagine implacability and therefore cannot recognize it in the PLO. Or so say critics, who hope they are not proven correct by a visa for Arafat.●

PRIME MINISTER BENAZIR BHUTTO—RECIPIENT OF THE W. AVERELL HARRIMAN DEMOCRACY AWARD

● Mr. KERRY. Mr. President, Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, recently was chosen to receive the prestigious W. Averell Harriman Democracy Award, given by the National Democratic Institute for International Affairs [NDI]. Long recognized for its work around the world in the ongoing struggle for democracy, NDI acknowledged Prime Minister Bhutto's efforts in the restoration of democracy in Pakistan after 11 years of military dictatorship.

Unfortunately, the Prime Minister herself could not come to the United States to receive this award. Instead, the Prime Minister sent her mother and Senior Minister, Begum Nusrat Bhutto, to accept it on her behalf. No stranger to the struggle for democracy, Begum Bhutto delivered an eloquent address which I believe all Members of the Senate—and indeed all Americans—should be interested to read, and I ask that her speech be inserted in the RECORD at the conclusion of these remarks.

Begum Bhutto's words are a magnificent exposition on democracy, on the values we hold dear. They contain a timely reminder to Americans that "students and workers around the world today are quoting Madison, not Marx, Lincoln, not Lenin" as they pursue political change, and an appeal to Americans for support as Pakistan strives to give meaning to its newfound freedom.

Mr. President, I believe the new, democratic Government of Pakistan deserves that support. People all over the world know the story of Benazir Bhutto's recent rise to power, of her election as Prime Minister after years of imprisonment, harassment, and detention at the hands of the political and military opposition. Last November's elections in Pakistan were the first relatively free and fair elections in Pakistan in more than a decade. And today Prime Minister Bhutto is the first woman to lead a Moslem nation since the 13th century.

There is, however, an ongoing struggle in Pakistan to solidify democracy. Pakistan faces a myriad of problems which are not new—economic underdevelopment, rampant illiteracy, a rising scourge of drugs, and the burden of providing for an ever-growing Afghan refugee population, now numbering well over 3 million. What is new, Mr. President, is the way the Bhutto government is attacking these problems: aggressively and successfully.

In response to Pakistan's enormous economic and social problems, the first

months of leadership by the Bhutto government have provided many heartening signs. The new Government of Pakistan has moved to cut spending, reduce the deficit, privatize industry, and welcome foreign investment. Inflation once in the double-digits today is less than 10 percent, and continues downward. Bureaucratic redtape is being eliminated and the private sector is once again alive with investment initiatives. A serious and sustained assault on drug trafficking has begun with criminals being arrested, prosecuted, and extradited.

Mr. President, I am proud to voice my support today for the government of Prime Minister Bhutto and for the people of Pakistan. Their dream of democracy merits our support and deserves the chance to succeed.

Mr. President, I ask that the attached speech by Begum Nusrat Bhutto be included in the RECORD at this point.

The remarks follow:

SPEECH BY SENIOR MINISTER BEGUM NUSRAT BHUTTO

Speaker Foley, Vice President Mondale, Congresswoman Ferraro, Chairman Kirk, and Dear Friends, I stand before you tonight, deeply honored and very grateful to accept on behalf of my Prime Minister—and my daughter, Benazir Bhutto—the W. Averell Harriman Democracy Award, recognizing her efforts to restore democracy in Pakistan and her commitment to strengthening democractic institutions worldwide. You will forgive a very proud mother for complimenting the Institute on its choice.

Benazir sends with me her greetings and her deep appreciation for this award, named in honor of a great American, whose contributions to the promotion and preservation of democratic values is legendary. And for Benazir to be receiving this award along with another great American, Speaker TOM FOLEY, only doubles the honor. Benazir wishes to accept this award not just for herself—but also on behalf of the millions in Pakistan—and across the world—who battled to see democracy restored to our nation.

Many of those who fought, suffered—and some—some gave their lives so that others might breathe free. In our hearts, we shall always remember them. And in rocognizing Benazir this evening, you pay honor to their sacrifice, too.

No discussion of the restoration of democracy in Pakistan would be complete without mentioning the invaluable work of the National Democractic Institute—and particularly its leadership in monitoring the November 1988 elections. For the first time in 11 years, Pakistanis were able to participate in relatively free and fair elections. And the relative absence of fraud in those elections was due in no small measure to the fine work of NDI. On behalf of Benazir, myself and millions of Pakistani men and women, long deprived of human dignity and hope, I thank you.

In Pakistan, we are emerging from a long, national nightmare into a new era of freedom and justice, but our work—and yours—has just begun. Democracy has a global agenda. And it can be found in the recent surge of democratic movements around the world, and in the calls for reform in authoritarian regimes.

Earlier this year speaking at the Harvard commencement, Prime Minister Bhutto called for the creation of a new Association of Democratic Nations. Her goal was clear and straightforward: To form an international union committed to representative democracy, committed to the notion that all governments should be accountable to the people whom they serve.

On Benazir's behalf, I reiterate that call today. Governments often have found it convenient and wise to band together, usually at times of grave external threat, and most successfully, during times of war. Indeed, the world had not suffered from a lack of international organizations.

By last count, there are over 2,650 international organizations, ranging from the grand to the mundane; from organizations dedicated to peace to organizations dedicated to cooperation in seed testing and cotton planting. But there has never been an international organization bringing together nations solely on the basis of their adherence to constitutional government and the commitment to the values of democracy.

The need for such an organization is particularly acute for the world's new democracies, for nations making the difficult transition from autocracy to freedom. The time is long overdue for those of us who believe in what we preach, to help others around the world who share our values. In South America, in Asia, in Eastern Europe—and even in the Soviet Union—the old order is crumbling in the face of democratic change.

From the politburo to the communal farm, the tender shoots of freedom are sprouting, the roots of which lie deep in the soil of the North American continent. The world is changing more rapidly than perhaps we realize. We stand as an international community confronting an opportunity, an opportunity unseen in the world for at least 70 years since the victory of democratic nations in World War I.

Today's world leaders must decide: Will they cooperate in shaping the awesome change sweeping the globe or let another opportunity go by.

The time is right for assertive action to promote democracy—for coordinated efforts to create an Association of Democratic Nations. An association committed to the proposition, manifest in the United Nations Universal Declaration of Human Rights, that "freedom is not the sole prerogative of a lucky few, but the inalienable right of all human beings." An association prepared to use the force of moral suasion and the incentive of economic action. An association to preserve democracy in nations in crisis—and to promote democracy in nations undertaking reform.

Democratic nations owe it to themselves, as a matter of self-interest, and to others, as a matter of morality, to expedite and educate, to encourage and cajole, to provide incentives and assistance in the promotion of democratic values around the world. Prime Minister Bhutto's proposal acknowledges the realities which separate nations, but gives expression to the hopes which unite them.

Freedom can be a fragile thing. Despite political and economic progress, emerging democracies confront a myriad of problems associated with development. Not every democracy organizes itself in the same way; nor does every democracy express itself the same way.

But Prime Minister Bhutto has identified two elements essential to all democracies: Elections, at regular intervals, open to all significant political parties, fairly administered and based on a broad or universal franchise and a system, both political and legal, which guarantees fundamental human rights, including freedom of expression, conscience, speech, and association.

Members of an Association of Democratic Nations could assist each other in many ways. But let us begin with the assurance of impartial elections. The National Democratic Institute has proven in Pakistan—and other nations—that the presence of observers is a deterrent to fraud. Governments tend to act more responsibly when they know the whole world is watching—and reporting. In countries without established democratic traditions, representative government is always at risk.

But an Association of Democratic Nations could balance those risks: By mobilizing world opinion, by strengthening the institutions of freedom, and by helping to build new institutions to guarantee human rights, the principles of justice, and due process of law.

Ultimately, the Association of Democratic Nations, as envisaged by Prime Minister Bhutto, could consider stronger steps: Channeling economic assistance to democracies, or applying economic sanctions against nations where freedom has been denied or diminished. Most donor nations are democracies. It is only fitting that they should nurture the values with which they have achieved political maturity and economic prosperity.

The recent effort to create a multilateral assistance initiative in support of democracy in the Philippines need to be a one-time achievement. It could be the forerunner of many such efforts organized and implemented through the Association of Democratic Nations. Criteria for assistance, agreed upon and applied by both donor and recipient nations, would have tremendous force in protecting transitional democracies. A moral framework for foreign policy, as proposed here, may be seen by some as a departure from standard operating procedure. If so, it is long overdue.

Morality, as expressed in international opinion, has played a far larger role in international relations than many seem prepared to recognize. It has played a significant role in changing the order in South America, South Asia, and now, in Eastern and Central Europe. And if morality did not intervene to save the life of my husband, Prime Minister Zulfikar Ali Bhutto, by the 1980's it was sufficiently strong to help save myself and my daughter Benazir—and to secure our release from prison under the previous military dictatorship in Pakistan.

The emphasis today on democracy and human rights in movements around the world is an outgrowth of an international moral consensus. Democratic structures, by providing freedom and fairness, are commendable in their own right. By providing predictability and stability, they enhance the quality of life for all. Throughout the world, liberty is on the move.

As democratic forces gain momentum in the last years of this century, the Association of Democratic Nations can take the lead in shaping the future. "A tomorrow," in Benazir's words, "better than the yesterdays we knew."

Today, we in Pakistan, as others before us, have joined you in the ranks of the world's democracies. We look, along with much of the world, to the United States, the world's greatest democracy, to help us protect our developing freedoms—to assist us in address-

ing new priorities. We, in Pakistan and across the developing world, seek with your help to build a new freedom, to define a new democracy.

Let Americans remember that while freedom is the universal political aspiration for all people, students and workers around the world today are quoting Madison, not Marx, Lincoln, not Lenin. It is a "government of the people, by the people, for the people" to which we all aspire.

In my husband's last letter to our daughter Benazir, written from the horror of his death cell, Prime Minister Zulfikar Ali Bhutto's final words quoted Senator Robert F. Kennedy: "Every generation has its central concern, whether to end war, erase racial injustice, or improve the condition of the working man. Today's young people appear to have chosen for their concern the dignity of the individual human being, they demand a limitation on excessive power. They demand a government that speaks directly and honestly to its citizens. The possibilities are too great, the stakes too high, to bequeath to the coming generation only the prophetic lament of Tennyson: 'Ah, what shall I be at fifty * * * if I find the world so bitter at twenty-five.' "

Our legacy to the next generation must be the blessing of freedom. We can be a catalyst for democracy and a bulwark against repression. Together, I believe, we can change the world. to quote Benazir: Time, justice and forces of history are on our side. For, in the words of Islam: "Tyranny cannot long endure."

We proved that in Pakistan. Together, we can prove it all over the world. Thank you.●

VAMOS

● Mr. LEAHY. Mr. President, Vermonters are known for their concern for people in need overseas, and for their willingness to try to help those people. As chairman of the Foreign Operations Subcommittee, I can attest to the number of letters and calls I have received from Vermonters who support efforts to improve the lives of children, women, and the poor from Central America to the Far East.

I recently learned about a group of Vermonters who have been working hard to improve conditions in the lives of our closest neighbors in Mexico. Two years ago, Patty Coleman and Ike Patch visited Mexico to see for themselves poverty that they later declared as beyond their worst nightmares. They returned to Vermont and decided to establish a nonprofit corporation, Vermont Associates for Mexican Opportunity and Support [VAMOS].

The organization has collected $30,000 mostly in small donations from over 500 Vermonters. All of the money is used to directly assist Mexicans in the area around Cuernavaca, a city of 1 million people located about 50 miles southwest of Mexico City. Overhead expenses, such as printing and administrative costs, are paid by the VAMOS directors.

The money is already helping to improve the lives of many Mexicans living near Cuernavaca. VAMOS has been able to provide the small amount of resources these people need to help lift themselves out of poverty. Donations have bought sewing machines for three clothing cooperatives, equipment for a mining cooperative, start-up funds for food cooperatives that can cut a family's food cost by one-third, and day care centers to care for children of working mothers.

VAMOS has seen remarkable results from people who are given a special opportunity to help themselves. I would like to take this opportunity to commend the founders of VAMOS for their important initiative. The many VAMOS volunteers and donors also deserve a special acknowledgement for their efforts to help our neighbors in Mexico.●

NATIONAL FALLEN FIREFIGHTERS' MEMORIAL

● Mr. GORTON. Mr. President, 134 of our Nation's career and volunteer firefighters lost their lives in the line of duty in 1988. Services for these courageous men and women will be held at the Eighth Annual National Fallen Firefighters' Memorial Service this Sunday.

I would like to specifically mention the firefighters from Washington State who are no longer with us: Lincoln McGowan, State of Washington Department of Natural Resources-Contractor, Lacey, WA; Robert R. Sittner, Skagit County FPD No. 7, Mount Vernon, WA; and Jean Verville, State of Washington Department of Natural Resources-Contractor, Lacey, WA. The citizens of the State of Washington owe a permanent debt of gratitude to these courageous and dedicated professionals, and to their families.

Fires kill several times more Americans than all other natural emergencies combined. The cost of fires in terms of both human life and economics is tremendous. I salute these individuals and commend the courage of their families for their service to their communities, their State, and the Nation.●

IN RECOGNITION OF JOSEF GINGOLD

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of my colleagues a great American, teacher, and musician, Josef Gingold. Professor Gingold will celebrate his 80th birthday on October 28, 1989.

A distinguished professor emeritus of music at Indiana University, Professor Gingold emigrated to the United States, with his family, after the First World War, beginning his formal musical education at the Third Street Settlement School in New York. Not only is he a world-renowned violinist and concertmaster, but Professor Gingold has influenced and guided several hundred professional violinists and string players who fill our great American orchestras and concert stages. In fact, the Minnesota Orchestra and the St. Paul Chamber Orchestra boast 18 Gingold students who attended his weekly master classes.

Truly an American treasure, Josef Gingold's influence on music in America as both performer and pedagogue is equaled by few. Year after year, young violinists from as far away as Australia, Asia, Europe, South America, and even from behind the Iron Curtain, travel to Bloomington, IN, for an opportunity to work with the great master. As a guest professor, he has brough the American school of violin to the Paris Conservatory, the Toho School in Tokyo, and the Britten-Pears School in England. Professor Gingold's three-volume set of orchestral excerpts is the standard text used by students and professional orchestra players the world over.

Concertgoers and music lovers everywhere have been touched by Josef Gingold and his relentless dedication to teaching. He is revered and loved by all who have had the good fortune to know him or hear his music. On behalf of his students and those who love classical music, I thank him for all that he has contributed to the advancement of his art, and wish him the very best in his 81st year.●

THE PEACE CORPS—A BIRTHDAY OF AN IDEA

● Mr. CHAFEE. Mr. President, how many of our Nation's great achievements can be traced back to their inception, that first moment an idea or thought is uttered for consideration? For instance, we recognize the day we first sent man to the Moon, but do we recall the first time we realized it could be done?

Today I would like to recognize a moment that occurred 29 years ago on October 14 at the University of Michigan. Presidential candidate John F. Kennedy asked the students gathered, "How many of you are willing to spend 2 years in Africa or Latin America or Asia working for the United States and working for freedom?" This challenge began a movement which led to the formal organization of the Peace Corps a year later.

Since that time, thousands of Americans have helped people in remote countries all over the world become more self-sufficient. The corps was created to promote peace and international understanding. It gave Americans the opportunity to educate themselves about the world, and, in turn, educate the world about the United States. For their efforts, volunteers received a monthly stipend and a token payment—or nest egg—at the end of their service.

Mr. President, people who volunteer for the Peace Corps don't do so for the money or the glamour. Peace Corps service is not used as a stepping stone for one's career. Ask someone who has served in the corps why he or she joined. Don't be surprised if the answer is patriotism or idealism, a desire to help those less fortunate or a passion to change the world.

This reasoning may sound naive in 1989 and more appropriate of the first volunteers who joined the corps in 1961. Yet I believe we are beginning to see the pendulum swing away from the "me generation" of the eighties to a more compassionate citizenry of the approaching nineties. Americans are taking a closer look at this country and realizing that the problems plaguing our Nation—drugs, illiteracy, homelessness—can be alleviated if everyone lent a hand.

There are many volunteer programs already in operation across the country that are doing a good job with their resources. But imagine what could be accomplished if every citizen gave 2 hours of his or her time every week! I'm not saying this would wipe out the demand for drugs or make everyone functionally literate, but we would be so much closer to making these goals a reality.

This year there has been a growing interest in national service, and many bills have been introduced in both the House and Senate that address this issue. There is a good possibility that one may be enacted into law this Congress. I am very much in favor of national service and have been closely considering each proposal.

I am troubled, however, that the discussion so far has focussed more on the incentives for performing service rather than the reasons why we all should offer a little of our time. I think it is time to change the "what's in it for me" mentality to "what can I do for you." Compassion cannot be mandated, nor should it be "bought" through offering housing or school loan vouchers.

If we are to develop a national volunteer corps, we should look to the reasons why the Peace Corps has been so successful in its efforts to recruit volunteers. Twenty-nine years ago a challenge was offered and our Nation responded. Since then over 130,000 individuals have volunteered their services in almost 100 countries. The Peace Corps continues to receive over 10,000 applications each year from individuals willing to share 2 years of their lives helping people throughout the world.

Today I hope you will join me in paying tribute to a simple idea that has changed the lives of so many here and abroad—the Peace Corps.●

WILLIAM D. JORDAN HONORED BY THE UNIVERSITY OF ALABAMA

● Mr. SHELBY. Mr. President, I rise today to pay tribute to one of Alabama's outstanding educators—William D. Jordan, a long-time faculty member of the university of Alabama's College of Engineering. In a ceremony due to take place today, the College of Engineering's Material Testing Laboratory in Hardaway Hall will be renamed the W.D. Jordan Laboratory.

Dr. Jordan has served the University of Alabama as a faculty member for 40 years. Bill Jordan has been an inspiration to the college of engineering, its faculty, its students and its alumni. Bill Jordan has spent his life in service to the college, the university and the Tuscaloosa community. This is, Mr. President, a fitting tribute for a worthy man.

Dr. Jordan's experience with the lab goes back almost 50 years, back to when he studied there as a student during his undergraduate days at the university.

Bill Jordan's interest in engineering began while in high school. After graduation, he came to the University of Alabama where he earned a bachelor of science degree in mechanical engineering in 1942, followed by a master of science degree in 1949. He received a doctorate from the University of Illinois in theoretical and applied mechanics in 1952.

From 1942 to 1946, Jordan was on active duty with the U.S. Army where he achieved the rank of captain. From 1946 to 1973 he led a distinguished career in the Army Reserves where he achieved the rank of colonel and received the Meritorious Service Medal upon his retirement.

Bill Jordan began his 40-year career with the University of Alabama in 1946, as an engineering instructor. He then climbed the academic ranks to the positions of assistant professor, associate professor and professor of engineering mechanics.

From 1961 to 1968 and 1981 to 1986, Dr. Jordan served as head of the department of engineering mechanics and from 1968 to 1981, he was the head of the department of aerospace engineering, mechanical engineering, and engineering mechanics.

Mr. President, I wish that I could be with Bill Jordan and his wife Carolyn and his three children, Lucy, Rebecca and William today to share with them and the university community this exciting event. I am proud to serve as one of Bill's representatives in Washington, and prouder still to call him my friend.●

PUT THE TRUST BACK IN THE SOCIAL SECURITY TRUST FUND

● Mr. HOLLINGS. Mr. President, this morning I joined with the distinguished majority leader, Senator MITCHELL, and others to unveil our proposal for taking the Social Security surpluses off budget for purposes of calculating compliance with Gramm-Rudman-Hollings. This leadership initiative will be a critical first step toward restoring truth in Federal budgeting. And, let's face it, until we acknowledge the truth—the scale and enormity—of our deficits, then we will continue on our current wreckless course of do-nothingism, denial, and deception.

The late John Mitchell, when he was Attorney General in the Nixon administration, used to say over and over again, "Watch what we do, not what we say." Well, the American people would do well to take that same advice if they want to understand just how desperate our current fiscal crisis really is.

Look not at what we are saying, but at what we are doing. We say that the budget deficit for 1990 will be just under $100 billion. Yet, lo and behold, at the end of this month we are going to raise the debt limit by some 300 billion dollars to allow for expected public borrowing during fiscal year 1990. Now, if the deficit is only $100 billion, why are we going to borrow $300 billion? The answer is simple. We are going to borrow $300 billion in 1990 because the true deficit, once you cut through all the monkeyshine, is going to be $300 billion. We arrive at that fanciful $100 billion projection only by indulging in enough fraud and larceny and malfeasance to land an ordinary citizen in the penitentiary.

Of course, the most reprehensible fraud in this great jambalaya of frauds is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit. As we all know, the Social Security payroll tax has become a money machine for the U.S. Treasury, generating fantastic revenue surpluses in excess of the costs of the Social Security program. Excess Social Security tax revenues will be $65 billion in 1990 alone—boosted by yet another rise in the Social Security tax rate, slated to kick in January 1. By 1993, the annual Social Security surplus will soar to $99 billion.

The public fully supported enactment of hefty new Social Security taxes in 1983 to ensure the retirement program's long-term solvency and credibility. The promise was that today's huge surpluses would be set safely aside in a trust fund to provide for baby-boomer retirees in the next century.

Well, look again. The Treasury is siphoning off every dollar of the Social Security surplus to meet current operating expenses of the Government. By thus reducing the deficit, we mask the true enormity of the Federal budget

crisis while creating the illusion that Congress and the administration are actually doing something about deficits.

Mr. President, our proposed amendment, which we intend to attach to the debt-ceiling bill, would put Social Security surpluses off budget for purposes of calculating the Federal budget deficit beginning October 1, the first day of fiscal 1990. The distinguished junior Senator from Texas and his Republican colleagues, aiming to rescue the administration's read my lips strategy, plan an alternative amendment that would put Social Security off budget in the distant future, in 1994.

By 1994, however, a cumulative sum in excess of a half-trillion dollars will have been borrowed from the Social Security trust fund, and the denuded trust fund will be piled high with IOU's. Those IOU's are a charming bookkeeping nicety, but the sheriff who tries to collect on them is truly going to have his work cut out for him.

The hard fact is that, in the next century, the Social Security system will find itself paying out vastly more in benefits than it is taking in through payroll taxes. And the American people will wake up to the reality that those IOU's in the trust fund vault are a 21st-century version of Confederate banknotes.

Of course, the Treasury would have the option of raising taxes to repay the astronomical sums we have borrowed from the trust fund. But that would be a brazen ripoff of working Americans, many of whom will be retirees obliged to pay a second time for the benefits they have already earned.

On the other hand, if the Treasury wimps out and chooses not to raise taxes to reimburse the trust fund, then there will be no alternative but to slash Social Security benefits. The most likely scenario is that Social Security payments would be turned into just another means-tested welfare program for the very poor; if you make more than say, $15,000 per year, then forget about collecting any Social Security benefits.

Any way you slice it, it is a lousy public policy to borrow massively from the Social Security trust fund with no credible plan for reimbursement. Of course, the immediate damage from this approach is that it allows us to mask the true scale of the Federal budget deficit, thus making it easier for us politicians to sit on our hands.

This is a gross breach of faith with the American people. Social Security is perhaps the most successful social program ever enacted by the Federal Government. Without question, it is the most effective antipoverty program in history. Social Security is not charity or welfare. On the contrary, it is a supplementary retirement fund that workers pay for with their hard-earned money.

I say it is time to stop playing games with Social Security and the Government's finances. It is time to use honest budget numbers and to make honest budget choices. By all means, let us begin by putting Social Security truly in trust and totally off budget.

Mr. President, I ask unanimous consent that the text of my original bill be printed in the RECORD at this point:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Preservation Act."

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(A)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1986, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $165,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $139,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $114,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $91,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $61,000,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $31,000,000,000;

"(K) with respect to the fiscal year beginning October 1, 1995, $0.

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1995"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1996".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1996".

SEC. 5. REVIEW METHODS OF MAXIMIZING INVESTMENT RETURN ON TRUST FUNDS.

Paragraph (5) of section 201(c) of the Social Security Act (U.S.C. 401(c)) is amended by inserting "(including investment policies which maximize the return on the Trust Funds within the requirements of subsection (d))" after "managing the Trust Funds".●

HOUSING REFORM PROPOSAL

● Mr. GARN. Mr. President, this past week marked an important and positive step for housing. Secretary Kemp proposed a sweeping reform package to turn around some of the problems that have plagues the Department of Housing and Urban Development. I commend the Secretary for responding to the urgency of this problem with an objective, responsible proposal.

With the introduction of this proposal, it is time for Congress to act. Just as we addressed the FSLIC crisis, we must move immediately to halt practices and programs which have drained HUD and the taxpayer.

As ranking member of the Senate Banking Committee, I hope to join the chairman of the committee, Senator RIEGLE, to advance Secretary Kemp's housing reform package. Chairman RIEGLE and I worked effectively in a bipartisan manner to advance the FIRREA legislation. It is my belief that we can duplicate this effort to respond with similar urgency to the problems in our Nation's housing programs.

The proposal of Secretary Kemp targets those activities of the Department which are in dire need of attention and restructuring. Just last week the GAO testified before the Senate Banking Committee to explain the nature of the $4.2 billion loss of the FHA program in 1988. This loss marks a major turnaround for the program after a decade of financial soundness. Over $960 million of this loss stems from just one program, the coinsurance program.

Although it is clear that the FHA has incurred substantial losses for a variety of reasons, one thing is clear: We have not paid enough attention to managing and monitoring activities that relate to the FHA funds. Secretary Kemp acknowledges the need for focus and reform related to the FHA. Three out of the five areas of the administration's package target FHA. The proposal established a chief financial officer for HUD and a Comptroller to oversee the FHA program. It terminates the title X Land Development Insurance Program, a program which has almost a 50-percent default rate. And, the proposal gets FHA out of the business of insuring vacation

homes. These steps and others clearly move in the direction of restoring the integrity and soundness of the FHA program.

In addition to programmatic problems, the Department has been overwhelmed by influence peddling. Whether Republican or Democrat, a consultant with the right ties or connections could benefit from assisting developers with HUD contracts. In some circumstances the consultants have made as much as $300,000 on a single project. Low-income housing programs were not designed to be money-making programs for consultant and lobbyists in Washington. Realistic reform must get HUD out of the business of being a political cash register.

Secretary Kemp's proposal does just this. The proposal requires the registration of consultants, and it ensures that HUD funding used in conjunction with the low-income tax credit is used efficiently and only in situations of need. It eliminates CDBG discretionary funding, a pool of funding which has become prime for special congressional projects which are not truly needed like bike racks and swimming pools.

Secretary Kemp's proposal represents a broad range of concerns about the Department of Housing and Urban Development. It is a proposal that reflects congressional investigations, independent financial audits, and press accounts. It takes into consideration management issues and structural problems with programs. It is a welcome overhaul of an agency that has so desperately needed attention and reform.

These have certainly been trying times at HUD. Not many could have withstood the confusion and pressure. In the face of these problems, Secretary Kemp has exhibited incomparable leadership and resilience. I truly look forward to working with his administration to "clear the decks" and move onward.●

REVISION OF SOLID WASTE DISPOSAL BILL

● Mr. SPECTER. Mr. President, I take this opportunity to point out to my colleagues a revision in the legislation Senator HEINZ and I announced this morning regarding the disposal of solid waste. As my colleagues know, when the Senate convened this morning, Senator HEINZ and I introduced a bill to address the rapidly decreasing landfill capacity in Pennsylvania and throughout the Nation.

The version of the bill we originally planned to introduce, and which I discussed in my floor statement, included a provision to impose a fee, per ton of solid waste, on States currently exporting solid waste to other States. The amount of this fee was to be determined by the Environmental Protection Agency. Revenue raised through the fee would be placed in the U.S. Treasury and would be used to compensate—in part—those States currently accepting out-of-state solid waste.

During the Senate's review of the bill throughout the day, however, tax implications were raised in light of the fee provision which would require extensive review by the Finance Committee, rather than the Committee on Environment and Public Works. Given the urgency of the landfill situation and the need for prompt action to avert an environmental crisis, Senator HEINZ and I decided this evening to revise the bill by omitting the fee provision at this time. We plan to introduce, however, a separate, freestanding bill containing this provision in the near future.

Mr. President, to reiterate my statement expressed this morning, this approach, which focuses on incentives for States to form regional compacts to address solid waste issues, represents a significant beginning to address a difficult problem. Therefore, I urge my colleagues to join us in support of this initiative to address landfill problems nationwide.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar Order No. 377. I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF THE INTERIOR

David Courtland O'Neal, of Illinois, to be an Assistant Secretary of the Interior, vice J. Steven Griles, resigned.

STATEMENT ON THE NOMINATION OF DAVID C. O'NEAL TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR LAND AND MINERALS MANAGEMENT

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of David C. O'Neal to be Assistant Secretary of the Interior for Land and Minerals Management by a unanimous vote.

Mr. O'Neal currently serves as the Assistant Secretary of Mine Safety and Health at the Department of Labor, and prior to that was Deputy Director of the Bureau of Land Management at the Department of the Interior. From 1976-81, he served as Lieutenant Governor of the State of Illinois and was active in a number of State energy and mining-related programs. His background and experience in Federal and State government make him well qualified for the position of Assistant Secretary for Land and Minerals Management.

Mr. President, I urge my colleagues to join me in supporting Mr. O'Neal's confirmation as Assistant Secretary of the Interior for Land and Minerals Management.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

ORDERS FOR MONDAY, OCTOBER 16, 1989

RECESS UNTIL 2 P.M.; MORNING BUSINESS; BEGIN CONSIDERATION OF S.J. RES. 180

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 2 p.m. on Monday, October 16; that following the time for the two leaders there be a period for morning business until 3 p.m., with Senators permitted to speak therein for up to 5 minutes each; and that, at 3 p.m., the Senate begin consideration of Calendar Order No. 257, Senate Joint Resolution 180, the constitutional amendment relating to flag desecration.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M., MONDAY, OCTOBER 16, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 11:56 p.m., recessed until Monday, October 16, 1989, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate October 13, 1989:

DEPARTMENT OF JUSTICE

ROBERT W. SWEET, JR., OF VIRGINIA, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, VICE VERNE L. SPEIRS, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

RONALD S. CONDRON	STANLEY J. LANDER
MICHAEL J. BECHTEL	RICHARD W. CUSSON, JR.
ROBERT L. KOHLHOFF	GENE L. SCHLECHTE
PHILIP T. STANLEY	PATRICK J. CUNNINGHAM,
PHILLIP L. STEPHENSON	JR.
LAWRENCE E. SOLBERG	JACK R. BENTLEY

MARK J. SIKORSKI
MARK H. LANDRY
PETER J. DINICOLA
WILLIAM P. VIETH, JR.
MARK J. BURROWS
KEVIN G. ROSS
MANSON K. BROWN III
MARK L. MILLER
CLINTON S. GORDON
WILLIAM F. MEYN, JR.
ROBERT W. MCCARTHY III
WAYNE N. COLLINS
JAMES A. WATSON IV
BRIAN J. O'KEEFE
LEE T. ROMASCO
MARTIN L. JACKSON
FREDERIC C. HARWOOD
JAY R. HICHMAN
RONALD F. WOHLFROM
CLIFFORD K. COMER
JAMES A. MCKENZIE
WILLIAM P. LAYNE III
WILLIAM J. WAGNER
RICHARD C. YAZBEK
STEPHEN L. KANTZ
JEFFREY B. STARK
EDDIE V. MACK
DWIGHT K. MCGEE
JOSEPH R. CASTILLO
ROBERT A. VANZANDT
JOHN W. YOST
ANDREW G. GIVENS
PAUL A. PREUSSE
KURT R. WELLINGTON
JON M. BECHTLE
BRUCE W. BLACK
MICHAEL J. LAPINSKI
GEORGE S. SABOL
KENNETH KEEFE
MITCHELL R. FORRESTER
RONALD J. RABAGO
THOMAS J. CHUBA, JR.
MARK E. ASHLEY
MATTHEW J. VAUGHAN
ROBERT E. REININGER
KENT P. MACK
LANCE W. CARPENTER
BRYON ING
STEVEN H. RATTI
WAYNE C. PARENT
MICHAEL P. RAND
MICHAEL J. MANGAN
JEFFREY E. BRAGER
DOUGLAS R. CARLSON
JAMES K. DABNEY
STEVEN F. BUTLER
MICHAEL R. SAFFORD
ALEXANDER P. MUNOZ
PATRICIA B. DARCY
ROBERT V. PALOMOBO
WILLIAM D. ELEY
EDWARD J. GLEASON
BRIAN R. CONAWAY
JOSEPH A. BIGLEY, JR.
EGBERT DEJONG
HUBERT L. HOOD, JR.
MICHAEL D. VALERIO
THOMAS C. RIGGS
JOSEPH H. EWALT
MICHAEL T. BURNETT
MICHAEL G. FETROW
RONALD S. LEIDNER
GERALD R. HAGAN
WALCOTT J. BECKER, JR.
ALEX C. MCMAHAN, JR.
ALLAN J. COATES
DALE L. WALKER
GUY R. SORENSEN
THOMAS H. SPECHT
JOHN H. SMITH
GARLAND M. LEWIS
JOSEPH W. EVANS, JR.
CHARLES R. BARBER
JEFFREY D. ELLISON
DARRELL W. WILLIAMS
STEVEN D. HARDY
KEVIN E. DALE
MICHAEL E. NELSEN
ROBERT L. HURST
ARTHUS J. LAMONTAGNE
MICHAEL KOPITO
CHRISTOPHER W. LILLIE
GINA M. JACOBSON
JAMES M. FARLEY
KEN F. KRAUSE
JEFFREY A. GABRIELSON
JAMES M. OBERNESSER
MICHAEL L. SCHAFERSMAN
THOMAS R. CAHILL
PHILIP K. DAGNESE
GLEN E. HENSLEY
GARRY L. DANIEL
HENRY D. REED
ROBERT M. AUSTIN
DOUGLAS P. RIGGINS
JOHN J. LAPKE
WILLIAM J. MCHENRY
PATRICK T. KEANE
JOHNNY L. HOLLOWELL
GUY A. TETREAU
JAMES X. MONAGHAN
STEPHEN P. GARRITY
RHAE A. GIACOMA
STEVE M. SAWYER
DUANE M. SMITH
JAMES W. KELLY
DARRELL C. FOLSOM
LAWRENCE M. FONTANA
MICHAEL T. COVEY
LARRY D. CHEEK
DANIEL A. NEPTUN
EARL W. FAIRCHILD, JR.
GARY J. FOX
ROBERT P. RUTLEDGE
PAUL D. JEWELL
ARNE O. DENNY
EARLE G. THOMAS IV
WILLIAM J. UBERTI
RUSSELL F. GLENDENNING
JOHN C. GIFFORD
CHRISTOPHER C. COLVIN
DOUGLAS J. WISNIEWSKI
ROBERT W. NUTTING
BRADLEY M. JACOBS
CHET A. HARTLEY
GREGORY A. KMIECIK
ALLEN LOTZ
KURT W. NANCARROW
DAVID B. MCLEISH
FRANCIS J. STURM
DAVID C. SPILLMAN
CHRISTOPHER A. ABEL
NORRIS E. MERKLE
WILLIAM D. WIEDENHOEFT
WILLIAM H. JONES
DAN S. TAKASUGI
CHRISTOPHER J. CONKLIN
KEVIN S. COOK
DANE S. EGLI

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

EDWARD S. CARMICK, xxx-xx-xxxx
NOWLAN K. DEAN, xxx-xx-xxxx
GLORIA B. DUFFY, xxx-xx-xxxx
TERRY H. GOFF, xxx-xx-xxxx
JAMES R. HICKMAN, xxx-xx-xxxx
MURL E. LEIBRECHT, xxx-xx-xxxx
CHANDRAKANT P. SHAH, xxx-xx-xxxx
JOEL TRUJILLO, xxx-xx-xxxx

To be lieutenant colonel

RAYMOND L. GRAHAM, xxx-xx-xxxx
RONALD E. GRIMWOOD, xxx-xx-xxxx
DAN M. HENSHAW, xxx-xx-xxxx
MOHAMMED S. UDDIN, xxx-xx-xxxx

To be captain

KAREN A. FOX, xxx-xx-xxxx
DONALD R. YOHO, JR, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

JAMES D. ALLMAN, xxx-xx-xxxx
PETER S. BARRINGER, xxx-xx-xxxx
BARRY D. BARRUS, xxx-xx-xxxx
LARRY D. ELLISON, xxx-xx-xxxx
VINCENT CHUNG-HON HU, xxx-xx-xxxx
FRANK J. RESCH, xxx-xx-xxxx
JON E. SCHIFF, xxx-xx-xxxx

To be major

GEORGE W. CASTRO, xxx-xx-xxxx
JON G. FULLER, JR., xxx-xx-xxxx
WILLIAM T. GILLESPIE, xxx-xx-xxxx
ALAN E. PALMER, xxx-xx-xxxx

To be captain

RICHARD H. VILLA, xxx-xx-xxxx

MEDICAL SERVICES CORPS

To be lieutenant colonel

JAMES M. DAVIS, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

To be major

CHARLES P. MENDEZ, xxx-xx-xxxx

CHAPLAIN CORPS

To be first lieutenant

MICHAEL J. STACY, xxx-xx-xxxx

JUDGE ADVOCATE

To be major

BENEDICT C. VIGLIETTA, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be major

DALE H. RATH, xxx-xx-xxxx

THE FOLLOWING CADET, U.S. AIR FORCE ACADEMY, FOR APPOINTMENT AS A SECOND LIEUTENANT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTIONS 9353(B) AND 531, TITLE 10, UNITED STATES CODE, WITH A DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

ALAN L. MATHIS, xxx-xx-xxxx

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

JAMES J. IRELAND, xxx-xx-xxxx

To be lieutenant colonel

Y.M.S. BUSHAN, xxx-xx-xxxx
SUN HWAN CHI, xxx-xx-xxxx
JESUS H. ISERN-AMARAL, xxx-xx-xxxx
SILLOO B. KAPADIA, xxx-xx-xxxx
STEPHEN A. MCGUIRE, xxx-xx-xxxx
PRIMO B. MILAN, xxx-xx-xxxx
ODIE V. NEWBORN, xxx-xx-xxxx
SHAKUNTALA PATEL, xxx-xx-xxxx
ARTHUR T. SCHERER, xxx-xx-xxxx
ZE D.P.B. WALTER, xxx-xx-xxxx

NURSE CORPS

To be lieutenant colonel

CAROLYN E. BASKERVILLE, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be colonel

*EDUARDO C. CUISON, xxx-xx-xxxx

To be major

*ALBERT D. CAIN, xxx-xx-xxxx
*DAVID A. COMPTON, xxx-xx-xxxx
*STEVEN A. ELG, xxx-xx-xxxx
*JOHN T. PAUL, xxx-xx-xxxx
*EDWARD B. MCWHIRT, xxx-xx-xxxx

VETERINARY CORPS

To be major

* RAYMOND K. HINES, xxx-xx-xxxx

ARMY NURSE CORPS

To be major

* BLAIN J. THOMAS, xxx-xx-xxxx

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593 AND 3353:

MEDICAL CORPS

To be colonel

JOHN L. CHAMBERLAIN, III, xxx-xx-xxxx
MARSHALL R. JOHNSON, xxx-xx-xxxx
JAMES O. MENZOIAN, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

CARL A. ANDERSON, xxx-xx-xxxx
LEO H. CAPOCCHI, xxx-xx-xx...
DAVID E. CULLIGAN, xxx-xx-xx...
JAMES M. GIFFIN, xxx-xx-xxxx
FRANK H. ISE, xxx-xx-xxxx
HERBERT E. JACOB, xxx-xx-xxxx
SIMON JAMESON, xxx-xx-xxxx
JOHN J. JEHL, xxx-xx-xxxx
CHARLES B. KAHN, xxx-xx-xxxx
ROBERT J. KAMINSKI, xxx-xx-xxxx
HARLEY D. KELLEY, xxx-xx-xxxx
DONALD W. KUNDEL, xxx-xx-xxxx
CHARLES R. MABRY, xxx-xx-xxxx
MACK C. POOLE, xxx-xx-xxxx
RAMON M. RUBIO, xxx-xx-xxxx
JOSEPH F. RUDA, JR., xxx-xx-xxxx
JOHN L. SORENSON, xxx-xx-xxxx
ARCHIE D. WALDEN, xxx-xx-xxxx

CONFIRMATION

Executive nomination confirmed by the Senate October 13, 1989:

DEPARTMENT OF THE INTERIOR

DAVID COURTLAND O'NEAL, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.